

7-27-2012

# State v. Orr Clerk's Record v. 1 Dckt. 39161

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IN THE  
SUPREME COURT  
OF THE  
STATE OF IDAHO

STATE OF IDAHO

Plaintiff/Respondent

Vs

**LAW CLERK**

ARLYN V ORR

Defendant/Appellant

*Appealed from the District Court of the Seventh Judicial  
District of the State of Idaho, in and for Madison County*

*Honorable Gregory W Moeller District Judge*

*Molly Huskey  
State Appellate Public Defender  
3647 Lake Harbor Lane  
Boise, ID 83720-0005  
Attorney for Appellant*

*Ken Jorgensen  
Idaho Attorney General  
PO Box 83720  
Boise, ID 83720-0010*

*Attorney for Respondent*

*Filed this the day of* , 2012

FILED COPY  
JUL 27 2012  
By  
Supreme Court Clerk of Appellate  
Entered on AFS by

Clerk

Deputy

29161

TITLE PAGE

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO	)	
Plaintiff-Respondent	)	
	)	SUPREME CT. CASE NUMBER 39161
VS	)	
	)	CASE NUMBER CR-2011-536
ARLYN V. ORR	)	
Defendant-Appellant	)	
	)	
	)	
	)	

---

CLERK'S RECORD ON APPEAL

Appeal from the District Court of the Seventh Judicial District of the State of Idaho, in  
and for the County of Madison

GREGORY W. MOELLER  
DISTRICT JUDGE

ATTORNEY FOR APPELLANT

Molly Huskey  
State Appellate Public Defender  
3647 Lake Harbor Lane  
Boise, ID 83720-0005

ATTORNEY FOR RESPONDENT

Ken Jorgensen  
Idaho Attorney Generals Office  
PO Box 83720  
Boise, ID 83720-0005

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Date: 5/2012

Seventh Judicial District Court - Madison County

User: GWEN

Time: 08:17 AM

ROA Report

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Case: CR-2011-0000536 Current Judge: Gregory W Moeller

Defendant: Orr, Arlyn V

State of Idaho vs. Arlyn V Orr

Felony

Date		Judge
3/11/2011	New Case Filed - Felony	Mark S. Rammell
	Minute Entry	Mark S. Rammell
	Hearing type: Arraignment	
	Hearing date: 3/11/2011	
	Time: 11:51 am	
	Courtroom:	
	Court reporter:	
	Minutes Clerk: Angie Wood	
	Tape Number:	
	Defense Attorney:	
	Prosecutor:	
	Prosecutor assigned Sid D Brown	Mark S. Rammell
	Arraignment / First Appearance	Mark S. Rammell
	Warrant Issued - Arrest Bond amount: 75000.00 Defendant: Orr, Arlyn V	Mark S. Rammell
	Case Sealed	Mark S. Rammell
	STATUS CHANGED: Inactive	Mark S. Rammell
	Warrant Returned Defendant: Orr, Arlyn V	Mark S. Rammell
	Case Un-sealed	Mark S. Rammell
	STATUS CHANGED: Pending	Mark S. Rammell
	Arraignment / First Appearance	Mark S. Rammell
	Hearing Scheduled (Preliminary Hearing 03/25/2011 11:00 AM)	Mark S. Rammell
	Notice Of Hearing	Mark S. Rammell
3/14/2011	Administrative License Suspension Notice And Temporary Permit	Mark S. Rammell
3/25/2011	Defendant: Orr, Arlyn V Appearance R. James Archibald	Mark S. Rammell
	Order Appointing Public Defender	Mark S. Rammell
	Continued (Preliminary Hearing 03/30/2011 09:00 AM)	Mark S. Rammell
	Defendant: Orr, Arlyn V Appearance Joshua A Garner	Mark S. Rammell
	Notice Of Hearing	Mark S. Rammell
	Minute Entry	Gregory W Moeller
3/30/2011	Hearing result for Preliminary Hearing held on 03/30/2011 09:00 AM: Preliminary Hearing Waived (bound Over)	Mark S. Rammell
	Disqualification - Bound Over to District Court	Gregory W Moeller
	Hearing Scheduled (Arraignment 04/04/2011 09:00 AM)	Gregory W Moeller
	Notice Of Hearing	Gregory W Moeller
	Amended Complaint Filed	Gregory W Moeller
	Order Binding Defendant Over	Gregory W Moeller
	Minute Entry	Gregory W Moeller
3/31/2011	Information	Gregory W Moeller
	Request For Discovery	Gregory W Moeller

REGISTER OF ACTIONS

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State of Idaho vs. Arlyn V Orr

Felony

Date		Judge
4/4/2011	Minute Entry Hearing type: Arraignment Hearing date: 4/4/2011 Time: 9:15 am Courtroom: Brent J. Moss District Court Court reporter: David Marlow Minutes Clerk: Angie Wood Tape Number: Defense Attorney: Joshua Garner Prosecutor: Sid Brown  Hearing result for Arraignment held on 04/04/2011 09:00 AM: District Court Hearing Held Court Reporter: David Marlow Number of Transcript Pages for this hearing estimated:  Hearing result for Arraignment held on 04/04/2011 09:00 AM: Arraignment in District Court	Gregory W Moeller          Gregory W Moeller  Gregory W Moeller
	A Plea is Entered for Charge - NG (I18-8004 {F} Driving Under the Influence-(Two or More Offenses))	Gregory W Moeller
	A Plea is Entered for Charge - NG (I23-505 Alcoholic Beverage-Unlawful Transport or Open Container Violation)	Gregory W Moeller
	A Plea is Entered for Charge - NG (I18-705 Resisting or Obstructing Officers)	Gregory W Moeller
	Hearing Scheduled (Pre-Trial 05/16/2011 11:00 AM)	Gregory W Moeller
	Hearing Scheduled (Jury Trial 06/15/2011 09:00 AM)	Gregory W Moeller
5/16/2011	Hearing result for Pre-Trial held on 05/16/2011 11:00 AM: Hearing Held	Gregory W Moeller
5/18/2011	Hearing Scheduled (Pre-Trial 05/24/2011 10:00 AM)	Gregory W Moeller
5/24/2011	Minute Entry Hearing type: Pre-Trial Hearing date: 5/24/2011 Time: 9:54 am Courtroom: Court reporter: David Marlow Minutes Clerk: Angie Wood Tape Number: Defense Attorney: Joshua Garner Prosecutor: Sid Brown  Hearing result for Pre-Trial held on 05/24/2011 10:00 AM: District Court Hearing Held Court Reporter: David Marlow Number of Transcript Pages for this hearing estimated:	Gregory W Moeller          Gregory W Moeller
6/8/2011	Motion to Withdraw as Attorney of Record	Gregory W Moeller
6/9/2011	Motion To Amend Information	Gregory W Moeller
6/13/2011	Hearing Scheduled (Motion 06/13/2011 09:00 AM)	Gregory W Moeller

User: GWEN

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State of Idaho vs. Arlyn V Orr

Date		Judge
6/13/2011	Minute Entry Hearing type: Motion Hearing date: 6/13/2011 Time: 9:02 am Courtroom: Court reporter: David Marlow Minutes Clerk: Angie Wood Tape Number: Defense Attorney: Joshua Garner Prosecutor: Sid Brown  Hearing result for Motion held on 06/13/2011 09:00 AM: District Court Hearing Held Court Reporter: David Marlow Number of Transcript Pages for this hearing estimated:  Hearing result for Jury Trial held on 06/15/2011 09:00 AM: Continued	Gregory W Moeller                   
6/14/2011	Minute Entry and Order	Gregory W Moeller
6/20/2011	Motion to Suppress	Gregory W Moeller
6/23/2011	Hearing Scheduled (Jury Trial 07/27/2011 09:00 AM)	Gregory W Moeller
	Hearing Scheduled (Pre-Trial 06/27/2011 10:00 AM)	Gregory W Moeller
	Hearing Scheduled (Motion 06/27/2011 10:00 AM)	Gregory W Moeller
6/27/2011	Minute Entry Hearing type: Pre-Trial Hearing date: 6/27/2011 Time: 9:49 am Courtroom: Brent J. Moss District Court Court reporter: David Marlow Minutes Clerk: Angie Wood Tape Number: Defense Attorney: Joshua Garner Prosecutor: Sid Brown  Hearing result for Pre-Trial scheduled on 06/27/2011 10:00 AM: District Court Hearing Held Court Reporter: David Marlow Number of Transcript Pages for this hearing estimated:  Hearing result for Motion scheduled on 06/27/2011 10:00 AM: District Court Hearing Held Court Reporter: David Marlow Number of Transcript Pages for this hearing estimated:	Gregory W Moeller                   
7/7/2011	Hearing Scheduled (Pre-Trial 07/11/2011 11:00 AM)	Gregory W Moeller
7/11/2011	Minute Entry Hearing type: Pre-Trial Hearing date: 7/11/2011 Time: 11:20 am Courtroom: Court reporter: David Marlow Minutes Clerk: Angie Wood Tape Number: Defense Attorney: Joshua Garner Prosecutor: Sid Brown	Gregory W Moeller

State of Idaho vs. Arlyn V Orr

## Felony

Date		Judge
7/11/2011	Hearing result for Pre-Trial scheduled on 07/11/2011 11:00 AM: District Court Hearing Held Court Reporter: David Marlow Number of Transcript Pages for this hearing estimated:	Gregory W Moeller
7/20/2011	Hearing Scheduled (Motion 07/25/2011 09:30 AM) Notice Of Hearing on The State's Motion to Amend Information	Gregory W Moeller Gregory W Moeller
7/21/2011	Subpoena Returned (Officer)	Gregory W Moeller
7/22/2011	Subpoena Returned (Officer) Subpoena Returned Shawn Scott Subpoena Returned Lyle Rasmussen	Gregory W Moeller Gregory W Moeller Gregory W Moeller
7/25/2011	Minute Entry Hearing type: Motion Hearing date: 7/25/2011 Time: 9:50 am Courtroom: Brent J. Moss District Court Court reporter: David Marlow Minutes Clerk: Angie Wood Tape Number: Defense Attorney: Joshua Garner Prosecutor: Sid Brown  Hearing result for Motion scheduled on 07/25/2011 09:30 AM: District Court Hearing Held Court Reporter: David Marlow Number of Transcript Pages for this hearing estimated: Minute Entry and Order Amended Prosecuting Attorney Information	Gregory W Moeller           Gregory W Moeller Gregory W Moeller
7/26/2011	State's Witness and Exhibit List Defendant's Proposed Jury Instructions Defendant's Witness List	Gregory W Moeller Gregory W Moeller Gregory W Moeller
7/27/2011	Minute Entry Hearing type: Jury Trial Hearing date: 7/27/2011 Time: 9:03 am Courtroom: Brent J. Moss District Court Court reporter: David Marlow Minutes Clerk: Angie Wood Tape Number: Defense Attorney: Joshua Garner Prosecutor: Sid Brown	Gregory W Moeller



Date: 8/29/2012

Seventh Judicial District Court - Madison County

User: GWEN

Time: 08:17 AM

ROA Report

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Case: CR-2011-0000536 Current Judge: Gregory W Moeller

Defendant: Orr, Arlyn V

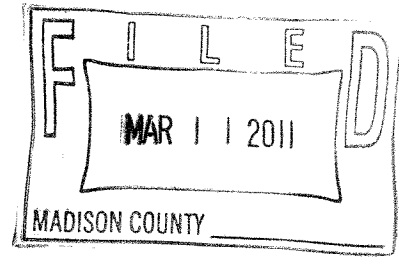
State of Idaho vs. Arlyn V Orr

Felony

Date		Judge
8/29/2011	Hearing result for Sentencing scheduled on 08/29/2011 09:30 AM: District Court Hearing Held Court Reporter: David Marlow Number of Transcript Pages for this hearing estimated: Guilty Plea Or Admission Of Guilt (I18-8004 {F} Driving Under the Influence-(Two or More Offenses)) Guilty Plea Or Admission Of Guilt (I18-705 Resisting or Obstructing Officers) Sentenced To Incarceration (I18-705 Resisting or Obstructing Officers) Confinement terms: Jail: 180 days. Credited time: 180 days. Sentenced To Incarceration (I18-8004 {F} Driving Under the Influence-(Two or More Offenses)) Confinement terms: Penitentiary determinate: 3 years. Penitentiary indeterminate: 7 years.	Gregory W Moeller     Gregory W Moeller Gregory W Moeller Gregory W Moeller
8/30/2011	Judgment of Conviction	Gregory W Moeller
9/9/2011	Motion and Affidavit in Support of Appointment of Counsel Order Granting Motion for Appointment of Counsel	Gregory W Moeller Gregory W Moeller
9/20/2011	Clerk's Record Suspended	Gregory W Moeller
9/30/2011	Amended Notice of Appeal	Gregory W Moeller
11/14/2011	Order Appointing State Appellate Public Defender	Gregory W Moeller
1/25/2012	Motion for Relief of Judgement Under Idaho Court Rule 60(b)	Gregory W Moeller
4/4/2012	Letter Granting Extension of Time	Gregory W Moeller

SID D. BROWN # 2726  
Madison County Prosecuting Attorney

Aaron V. Davis # 7527  
Deputy Prosecuting Attorney  
159 East Main Street  
P. O. Box 350  
Rexburg, Idaho 83440  
(208) 356-7768



IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF MADISON  
MAGISTRATE DIVISION

\_\_\_\_\_  
STATE OF IDAHO,

Plaintiff,

vs.

ARLYN V. ORR,  
5031 Tildy Lane  
Idaho Falls, Idaho 83401

DOB: [REDACTED]

OLN: [REDACTED]

Defendant.  
\_\_\_\_\_

Case No. CR-2011-526

CRIMINAL COMPLAINT

PERSONALLY APPEARED before me this 11 day of March, 2011, Deputy Joseph Palmer of the Madison County Sheriff's Office, in the County of Madison, State of Idaho, who being duly sworn, complains and says: That ARLYN V. ORR, of 5031 Tildy Lane, Idaho Falls, Idaho 83401, committed the following crimes:



COUNT I.  
PART ONE

OPERATING A VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL  
AND/OR DRUGS (DUI WITHIN FIFTEEN YEARS OF FELONY DUI), a FELONY  
Idaho Code § 18-8004(1)(a), 18-8005(9)

The Defendant, ARLYN V. ORR, on or about March 11, 2011, in the County of Madison, State of Idaho, did drive a motor vehicle, namely: a 1992 Black Isuzu License # 8BY4600, on South River Road, Near Cress Creek Parking Area, Rexburg Madison County, Idaho, while under the influence of alcohol and/or drugs or other intoxicating substance and/or was operating said motor vehicle while having a blood alcohol content in excess of .08.

COUNT I, PART TWO  
FELONY STATUS  
Idaho Code § 18-8005(9)

(Penalty: up to 10 years in prison and/or \$5,000 fine, and 1-5 year license suspension)

The Prosecuting Attorney for Madison County further informs the Court that, upon conviction, the Defendant, ARLYN V. ORR, will have been convicted of a violation of Idaho Code 18-8004 within fifteen (15) years of a prior felony conviction for driving while under the influence, namely: a conviction for Felony DUI in Boise, Idaho charged on February 19, 1999; and is subject to the penalties for a felony offense.

COUNT II.  
POSSESSION OF AN OPEN CONTAINER OF ALCOHOL  
IN A MOTOR VEHICLE, a Misdemeanor  
Idaho Code, Section 23-505

6 mos.  
\$1000

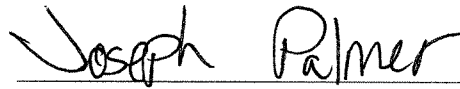
The Defendant, ARLYN V. ORR, on or about the March 11, 2011, in the County of Madison, State of Idaho, was driving a motor vehicle while drinking or physically possessing an open beverage containing alcoholic liquor.

COUNT III  
RESISTING AND OBSTRUCTING OFFICERS, a Misdemeanor  
Idaho Code § 18-705  
(Punishment: Up to one year in the County Jail and up to \$1,000 fine)

The Defendant, ARLYN V. ORR., on or about March 11, 2011, in the County of Madison, State of Idaho, did willfully resist delay or obstruct a public officer in the discharge, or attempted discharge, of his duty of office, to wit: by disobeying and resisting a lawful order to exit his vehicle.

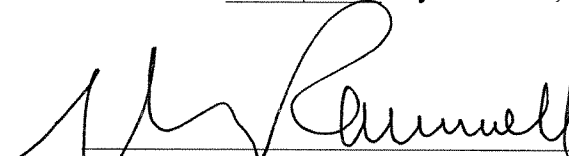
All of which is contrary to the form, force and effect of the Statute in such cases made and provided and against the peace and dignity of the State of Idaho. Said complainant therefore prays that a WARRANT be issued for the arrest of the said ARLYN V. ORR, and that he may be dealt with according to the law.

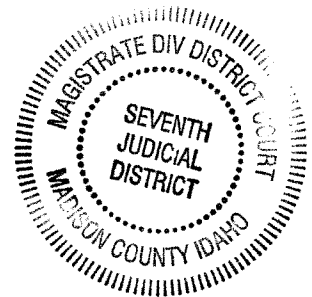
DATED this 11 day of March, 2011.



Joseph Palmer  
Madison County Deputy

SUBSCRIBED AND SWORN to before me this 11 day of March, 2011.

  
Magistrate



COURT MINUTES

CR-2011-0000536

State of Idaho vs. Arlyn V Orr

Hearing type: Arraignment

Hearing date: 3/11/2011

Time: 11:51 am

Judge: Mark S. Rammell

Courtroom:

Court reporter:

Minutes Clerk: Angie Wood

Tape Number:

Defense Attorney:

Prosecutor:

1150 J INTRO

DEFENDANT ADVISED OF RIGHTS

DEFENDANT ADVISED OF CHARGES & MAXIMUM PENALTIES

DEFENDANT ADVISED OF RIGHT TO PRELIM

SET FELONY FOR PRELIM

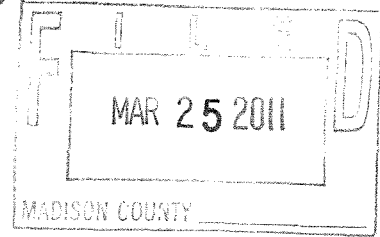
DEFENDANT REQUESTS PUBLIC DEFENDER

NOT GUILTY PLEAS ENTERED ON MISD CHARGES

SET MISD FOR PRE-TRIAL

ADVISED OF BOND SET IN THE AMOUNT OF \$75,000.00

Seventh Judicial District Court, State of Idaho  
In and For the County of Madison  
159 E. Main  
Rexburg, Idaho 83440



STATE OF IDAHO  
Plaintiff,

vs.

Arlyn V Orr  
5031 Tildy Lane  
Idaho Falls, ID 83401

Defendant.

DOB: [REDACTED]  
DL or SSN: [REDACTED]

Citation No:

Case No: CR-2011-0000536

**ORDER APPOINTING PUBLIC DEFENDER**

The Court being fully advised as to the application of Arlyn V Orr, and it appearing to be a proper case,

**NOW, THEREFORE, IT IS ORDERED** that Attorney

R. James Archibald

525 9th Street  
Idaho Falls, Idaho 83404  
(208) 317-2908

Public Defender for the County of Madison, State of Idaho, a duly licensed attorney in the State of Idaho, is hereby appointed to represent said Defendant, Arlyn V Orr, in all proceedings in the above entitled case.

The Defendant is further advised that he/she may be required to reimburse the Court for all or part of the cost of court appointed counsel.

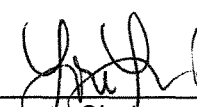
Date: 3-24-11

  
\_\_\_\_\_  
Judge

Copies to:

☒ Public Defender

☒ Prosecutor

  
\_\_\_\_\_  
Deputy Clerk

## COURT MINUTES

CR-2011-0000536

State of Idaho vs. Arlyn V Orr

Hearing type: Preliminary Hearing

Hearing date: 3/25/2011

Time: 11:05 am

Judge: Mark S. Rammell

Courtroom:

Court reporter:

Minutes Clerk: Angie Wood

Tape Number:

Defense Attorney:

Prosecutor: Sid Brown

11:05 am Introduction of case

Arlyn Orr was appointed an attorney today

He requested to have this matter continued today so an attorney will be here to represent him

Court appointed the public defender today

Reset this matter for a Preliminary Hearing

Defendant waives the time limit

Defendant does not want to proceed with an attorney

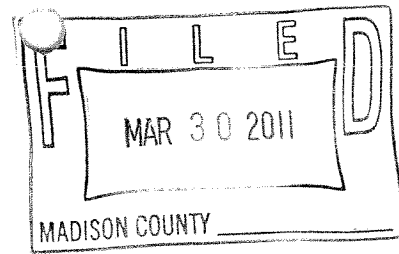
Defendant does not want to waive any rights

Defendant agrees to have the Preliminary Hearing on Wednesday

Set for 9:00 AM on Wednesday March 30, 2011

SID D. BROWN # 2726  
Madison County Prosecuting Attorney

Aaron V. Davis # 7527  
Deputy Prosecuting Attorney  
159 East Main Street  
P. O. Box 350  
Rexburg, Idaho 83440  
(208) 356-7768



IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF MADISON  
MAGISTRATE DIVISION

STATE OF IDAHO,

Plaintiff,

vs.

ARLYN V. ORR,  
5031 Tildy Lane  
Idaho Falls, Idaho 83401

DOB: [REDACTED]

OLN: [REDACTED]

Defendant.

Case No. CR-2011-536

AMENDED CRIMINAL COMPLAINT

PERSONALLY APPEARED before me this 30<sup>th</sup> day of March, 2011, Sid D. Brown, Madison County Prosecuting Attorney, in the County of Madison, State of Idaho, who being duly sworn, complains and says: That ARLYN V. ORR, of 5031 Tildy Lane, Idaho Falls, Idaho 83401, committed the following crimes:

COUNT I.  
PART ONE  
OPERATING A VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL  
AND/OR DRUGS (DUI WITHIN FIFTEEN YEARS OF FELONY DUI), a FELONY  
Idaho Code § 18-8004(1)(a), 18-8005(9)

The Defendant, ARLYN V. ORR, on or about March 11, 2011, in the County of Madison, State of Idaho, did drive a motor vehicle, namely: a 1992 Black Isuzu License # 8BY4600, on South River Road, Near Cress Creek Parking Area, Rexburg Madison County, Idaho, while under the influence of alcohol and/or drugs or other intoxicating substance and/or was operating said motor vehicle while having a blood alcohol content in excess of .08.

COUNT I, PART TWO  
FELONY STATUS  
Idaho Code § 18-8005(9)

(Penalty: up to 10 years in prison and/or \$5,000 fine, and 1-5 year license suspension)

The Prosecuting Attorney for Madison County further informs the Court that, upon conviction, the Defendant, ARLYN V. ORR, will have been convicted of a second felony violation of Idaho Code §18-8004 within fifteen (15) years, with the prior felony conviction for driving while under the influence, being a conviction for Felony DUI in Boise, Idaho on June 14, 2000; and is subject to the penalties for a felony offense.

COUNT II.  
POSSESSION OF AN OPEN CONTAINER OF ALCOHOL  
IN A MOTOR VEHICLE, a Misdemeanor  
Idaho Code, Section 23-505

The Defendant, ARLYN V. ORR, on or about the March 11, 2011, in the County of Madison, State of Idaho, was driving a motor vehicle while drinking or physically possessing an open beverage containing alcoholic liquor.

COUNT III  
RESISTING AND OBSTRUCTING OFFICERS, a Misdemeanor  
Idaho Code § 18-705  
(Punishment: Up to one year in the County Jail and up to \$1,000 fine)

The Defendant, ARLYN V. ORR., on or about March 11, 2011, in the County of Madison, State of Idaho, did willfully resist delay or obstruct a public officer in the discharge, or attempted discharge, of his duty of office, to wit: by disobeying and resisting a lawful order to exit his vehicle.

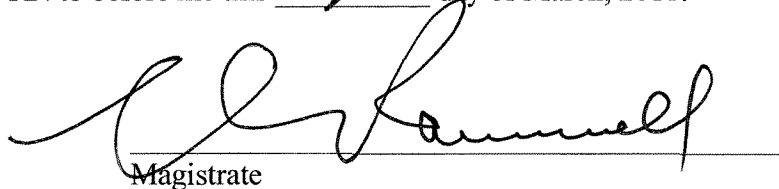
All of which is contrary to the form, force and effect of the Statute in such cases made and provided and against the peace and dignity of the State of Idaho.

DATED this 30<sup>th</sup> day of March, 2011.



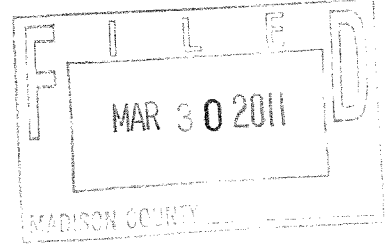
Sid D. Brown  
Madison County Prosecuting Attorney

SUBSCRIBED AND SWORN to before me this 30 day of March, 2011.

  
Magistrate



Seventh Judicial District Court, State of Idaho  
In and For the County of Madison  
159 E. Main  
Rexburg, Idaho 83440



STATE OF IDAHO,  
Plaintiff.

vs.

Arlyn V Orr  
5031 Tildy Lane  
Idaho Falls, ID 83401

Defendant.

DOB: [REDACTED]  
DL or SSN: [REDACTED]

Case No: CR-2011-0000536

ORDER BINDING OVER

The above named defendant having been brought before this court for a preliminary examination on the charge(s) of Driving Under the Influence-(Two or More Offenses) I18-8004 F Alcoholic Beverage-Unlawful Transport or Open Container Violation I23-505 Resisting or Obstructing Officers I18-705 , a felony, and the said defendant having appeared before this Court and voluntarily waived his right to a preliminary examination, and the court sitting as a committing Magistrate, THEREFORE ORDERS that said defendant be held to answer on the charge before the District Court of the Seventh Judicial District of the State of Idaho, in and for the County of Madison.

Dated this 30th day of March, 2011.

A handwritten signature in cursive script, appearing to read "Mark S. Rammell".

Mark S. Rammell  
Magistrate Judge

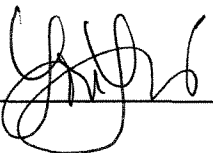
CERTIFICATE OF MAILING

I hereby certify that a copy of the foregoing ORDER BINDING DEFENDANT OVER was mailed or hand delivered to the following parties: Wednesday, March 30, 2011

Sid D Brown  
P.O. Box 350  
Rexburg, ID 83440

Joshua A Garner  
Po Box 1014  
Rexburg , ID, 83440

Marilyn R. Rasmussen  
Clerk of the District Court

By:  \_\_\_\_\_

COURT MINUTES

CR-2011-0000536

State of Idaho vs. Arlyn V Orr

Hearing type: Preliminary Hearing

Hearing date: 3/30/2011

Time: 11:51 am

Judge: Mark S. Rammell

Courtroom:

Court reporter:

Minutes Clerk: Angie Wood

Tape Number:

Defense Attorney:

Prosecutor: Sid Brown

9:15 am      Introduction of case

Judge explains that Josh Garner is appointed on the criminal case only – not on anything that may be civil

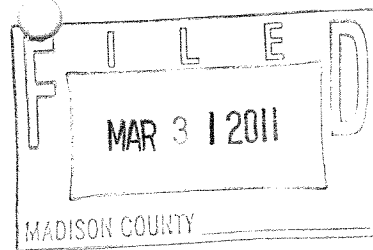
Defendant voluntarily waives his right to a Preliminary Hearing

Bind over to District Court for arraignment

Set for arraignment on April 4, 2011

SID D. BROWN # 2726  
Madison County Prosecuting Attorney

159 East Main Street  
P. O. Box 350  
Rexburg, Idaho 83440  
(208) 356-7768



IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF MADISON

STATE OF IDAHO,

Plaintiff,

vs.

ARLYN V. ORR,

Defendant.

Case No. CR-2011-00536

PROSECUTING ATTORNEY  
INFORMATION

ARLYN V. ORR, is accused by the Prosecuting Attorney of the County of Madison, State of Idaho, by this Information of committing, prior to the filing of this Information, the following crime(s):

COUNT I.

PART ONE

OPERATING A VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL  
AND/OR DRUGS (DUI WITHIN FIFTEEN YEARS OF FELONY DUI), a FELONY  
Idaho Code § 18-8004(1)(a), 18-8005(9)

The Defendant, ARLYN V. ORR, on or about March 11, 2011, in the County of Madison, State of Idaho, did drive a motor vehicle, namely: a 1992 Black Isuzu License # 8BY4600, on South River Road, Near Cress Creek Parking Area, Rexburg Madison County, Idaho, while under the influence of alcohol and/or drugs or other intoxicating substance and/or was operating said motor vehicle while having a blood alcohol content in excess of .08.

COUNT I, PART TWO  
FELONY STATUS  
Idaho Code § 18-8005(9)

(Penalty: up to 10 years in prison and/or \$5,000 fine, and 1-5 year license suspension)

The Prosecuting Attorney for Madison County further informs the Court that, upon conviction, the Defendant, ARLYN V. ORR, will have been convicted of a second felony violation of Idaho Code §18-8004 within fifteen (15) years, with the prior felony conviction for driving while under the influence, being a conviction for Felony DUI in Boise, Idaho on June 14, 2000; and is subject to the penalties for a felony offense.

COUNT II.  
POSSESSION OF AN OPEN CONTAINER OF ALCOHOL  
IN A MOTOR VEHICLE, a Misdemeanor  
Idaho Code, Section 23-505

The Defendant, ARLYN V. ORR, on or about the March 11, 2011, in the County of Madison, State of Idaho, was driving a motor vehicle while drinking or physically possessing an open beverage containing alcoholic liquor.

COUNT III  
RESISTING AND OBSTRUCTING OFFICERS, a Misdemeanor  
Idaho Code § 18-705  
(Punishment: Up to one year in the County Jail and up to \$1,000 fine)

The Defendant, ARLYN V. ORR., on or about March 11, 2011, in the County of Madison, State of Idaho, did willfully resist delay or obstruct a public officer in the discharge, or attempted discharge, of his duty of office, to wit: by disobeying and resisting a lawful order to exit his vehicle.

DATED this 31<sup>st</sup> day of March, 2011.

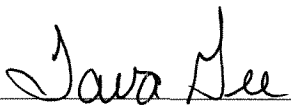
  
\_\_\_\_\_  
Sid D. Brown, Prosecuting  
Attorney for Madison County

CERTIFICATE OF MAILING

I HEREBY CERTIFY that a true and correct copy of the foregoing PROSECUTING ATTORNEY'S INFORMATION was on this date served upon the person named below, at the address set out below his name, by mailing to him a true and correct copy of said document at the address set out below.

DATED this 31<sup>st</sup> day of March, 2011.

Joshua A. Garner  
Attorney at Law  
P.O. Box 1014  
Rexburg, Idaho 83440

  
\_\_\_\_\_  
Secretary

COURT MINUTES

CR-2011-0000536

State of Idaho vs. Arlyn V Orr

Hearing type: Arraignment

Hearing date: 4/4/2011

Time: 9:15 am

Judge: Gregory W Moeller

Courtroom: Brent J. Moss District Court

Court reporter: David Marlow

Minutes Clerk: Angie Wood

Tape Number:

Defense Attorney: Joshua Garner

Prosecutor: Sid Brown

918 J INTRO

DEFENDANT PRESENT WITH COUNSEL

ADVISED OF RIGHTS

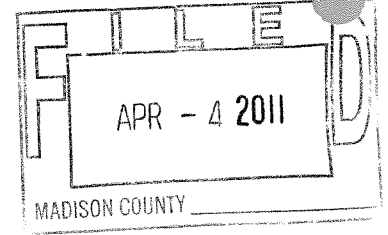
ADVISED OF CHARGES & POSSIBLE PENALTIES

DEFENDANT WILL ENTERSNOT GUILTY PLEA TO ALL COUNTS

SET FOR JT ON JUN 15-16, 2011

SET FOR PT ON MAY 16, 2011 AT 11:00 A.M.

Seventh Judicial District Court, State of Idaho  
In and For the County of Madison  
159 E. Main  
Rexburg, Idaho 83440



STATE OF IDAHO,  
Plaintiff.

vs.

Arlyn V Orr  
5031 Tildy Lane  
Idaho Falls, ID 83401

Defendant

DOB: [REDACTED]  
DL or SSN: [REDACTED]

Case No: CR-2011-0000536

**NOTICE OF PRE-TRIAL  
HEARING AND JURY TRIAL**

The above-entitled case is hereby set for trial to commence on Wednesday, June 15, 2011 at 09:00 AM for two days. Said trial will be held in the District Court of the Seventh Judicial District, Madison County, at the Madison County Courthouse in Rexburg, Idaho.

This is a **JURY TRIAL**

**IT IS HEREBY ORDERED**

1. Discovery shall be expeditiously conducted in accord with the provisions of Rule 16, Idaho Criminal Rules.
2. All motions must be filed in accord with the provisions and time requirements of Rule 12, Idaho Criminal Rules.
3. PRE-TRIAL CONFERENCE:
  - a. Counsel for the parties and the Defendant(s) shall appear before this Court on May 16, 2011 at 11:00 a.m. for pre-trial conference.
  - b. Counsel shall be prepared to discuss settlement possibilities pursuant to I.C.R. RULE 18.
  - c. Failure of the defendant to appear at this pre-trial conference will result in a forfeiture of bail and the Court shall issue a bench warrant.
  - d. The parties shall submit all proposed jury instructions and witness lists to the Court at the pretrial conference.
  - e. In the event that either party intends to introduce evidence pursuant to I.R.E. 404, 405, 406, 410, 412, 608 and 609, that party must disclose such evidence to opposing counsel on or before the pre-trial conference.



IT IS FURTHER ORDERED THAT NOT LATER THAN SEVEN DAYS BEFORE TRIAL:

Each attorney shall:

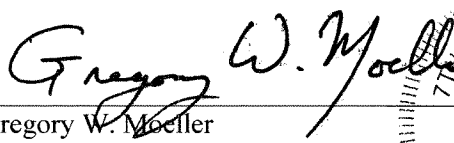
1. Exchange a descriptive list of exhibits proposed to be offered into evidence.
2. Pre-file with the Clerk of the Court all exhibits they intend to introduce at trial, except those for impeachment.

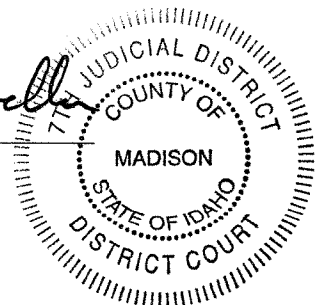
IT IS HEREBY FURTHER ORDERED THAT

1. Prior to the commencement of trial counsel for each party shall stipulate those exhibits that may be received in evidence without objection, and the Clerk shall mark such exhibits "admitted".
2. No exhibits shall be admitted into evidence at trial other than those disclosed, listed and in accordance with this Order, except when offered for impeachment purpose.
3. This Order shall control the subsequent course of action unless modified for a good cause shown to prevent manifest injustice.
4. The Court may impose appropriate sanctions for violation of this Order.
5. The Court will not grant continuances unless extraordinary circumstances exist and all the parties waive their right to a speedy trial.

**COURT REPORTER AVAILABILITY:** Due to the shortage of Court Reporters in the Seventh Judicial District, a reporter may be unavailable to cover any court proceeding including the trial. However, an audio recording will be made of every proceeding (except for informal pretrial conferences). If you cannot stipulate to the court hearing any matter without a reporter, you must request a reporter in writing at least fourteen (14) days before the scheduled proceeding. The court will attempt to accommodate such a request. In the event a reporter is not available, the court may declare an emergency and proceed without a reporter pursuant to Idaho Court Administrative Rule 27(h).

Dated: Monday, April 04, 2011

  
\_\_\_\_\_  
Gregory W. Moeller  
District Judge



CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT I mailed a true and correct copy of the foregoing document, to the parties listed below by U.S. Mail, postage prepaid, or caused the same to be Hand Delivered

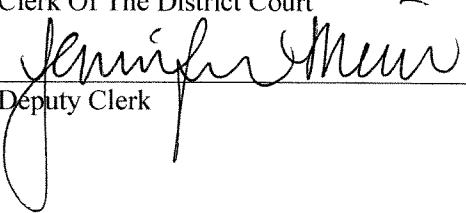
Sid D. Brown  
Courthouse Box

Joshua Garner  
Courthouse Box

Dated: Monday, April 04, 2011

Kim H. Muir  
Clerk Of The District Court

By:

  
Deputy Clerk

COURT MINUTES

CR-2011-0000536

State of Idaho vs. Arlyn V Orr

Hearing type: Pre-Trial

Hearing date: 5/24/2011

Time: 9:54 am

Judge: Gregory W Moeller

Courtroom:

Court reporter: David Marlow

Minutes Clerk: Angie Wood

Tape Number:

Defense Attorney: Joshua Garner

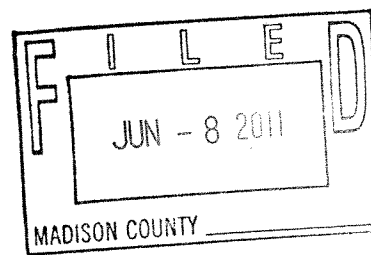
Prosecutor: Sid Brown

1016 J INTRO

COURT REPORTER NOT AVAILABLE

PARTIES WAIVE COURT REPORTER

MR. GARNER EXPLAINS THAT THE DEFENDANT WISHES TO VIEW THE DVD'S OF  
INCIDENT



Joshua A. Garner  
THE LAW OFFICE OF  
JOSHUA A. GARNER, PLLC  
P.O. Box 1014  
117 East Main  
Rexburg, ID 83440  
Telephone: (208) 359-3181  
Facsimile: (208) 359-5914  
ISBN: 7420

Attorney for Defendant

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF MADISON

STATE OF IDAHO,

Plaintiff,

v.

ARLYN ORR,

Defendant.

CASE NO.: CR-11-536

MOTION TO WITHDRAW AS  
ATTORNEY OF RECORD

PLEASE TAKE NOTICE that the Defendant's counsel, JOSHUA A. GARNER, of the firm THE LAW OFFICE OF JOSHUA A. GARNER, PLLC, hereby requests that the Court issue an Order allowing counsel to withdraw as the attorney of record in this matter for the following reasons:

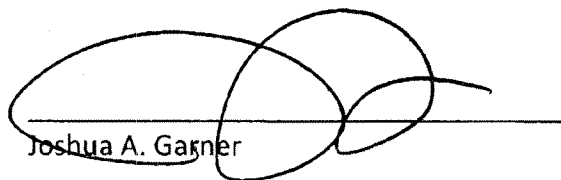
1. There has been a material breakdown in communication between the Defendant and counsel;
2. The Defendant has requested that he be allowed to represent himself and that counsel be relieved of his duty to represent the Defendant.

WHEREFORE, counsel for Defendant requests that this Court issue an Order allowing counsel to withdraw from this matter.

DATED this 8 day of June, 2011.

The Law Office of Joshua A. Garner, PLLC

Attorney for Defendant

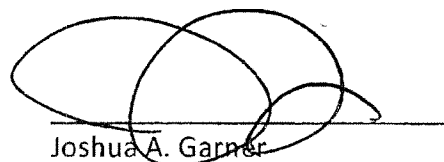
  
Joshua A. Garner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 8 day of June, 2011, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Office of the Prosecuting Attorney  
Sid Brown

- ☐ U.S. Mail
- ☐ Hand Delivered
- ☒ Facsimile to: 356-7839
- ☐ Overnight Mail

  
Joshua A. Garner

**FILED**  
JUN - 9 2011  
MADISON COUNTY

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF MADISON

MOTION TO AMEND  
INFORMATION

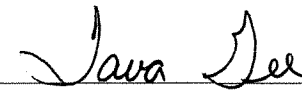
RESPECTFULLY SUBMITTED this 9<sup>th</sup> day of June, 2011.

MOTION TO AMEND INFORMATION  
PAGE 34

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 9<sup>th</sup> day of June, 2011, a true and correct copy of the foregoing MOTION TO AMEND INFORMATION was on this date served upon the persons named below, at the address set out below their names, by mailing to them a true and correct copy of said document in a properly addressed envelope in the united States mail, postage prepaid.

Joshua A. Garner  
Attorney at Law  
P.O. Box 1014  
Rexburg, Idaho 83440

  
Secretary

COURT MINUTES

CR-2011-0000536

State of Idaho vs. Arlyn V Orr

Hearing type: Motion

Hearing date: 6/13/2011

Time: 9:02 am

Judge: Gregory W Moeller

Courtroom:

Court reporter: David Marlow

Minutes Clerk: Angie Wood

Tape Number:

Defense Attorney: Joshua Garner

Prosecutor: Sid Brown

924 J INTRO

MR. GARNER ARGUES MOTION TO WITHDRAW

COURT HEARS MATTERS IN CHAMBERS

THERE IS NO DOUBT ABOUT DEFENDANT'S CONTEMPTANCY FROM STATE OR DA

MR. ORR STATES WHAT HE HAS BEEN CHARGED WITH

MR. ORR STATES THAT HE FEELS HE IS COMPETENT TO STAND TRIAL

MR. ORR WOULD LIKE TO PROCEED WITH MR. GARDNER AS SHADOW COUNSEL

COURT INQUIRES IF THERE ARE PROCEDURAL ISSUES THAT NEED TO BE HEARD PRIOR  
TO TRIAL

COURT WILL HEAR THOSE ISSUES ON WED. AT 1:00 PM

STATE OBJECTS TO HEARING ISSUES AFTER JURY HAS BEEN SELECTED



MR. GARNER STATES THAT PRE-TRIAL ISSUES HAS TO DO WITH NOT BEING  
MIRANDIZED

MR. BROWN IS REQUESTING THAT TRIAL BE CONTINUED

COURT WILL DENY MOTION TO WITHDRAW BUT MR. GARNER CAPACITY AS THE WISHES  
OF MR. ORR WILL BE SHADOW COUNSEL

COURT WILL GRANT ORAL MOTION TO CONTINUE IN ORDER TO FILE WRITTEN MOTION  
TO SUPPRESS

ORAL ARGUMENT WILL BE JUNE 27, 2011 AT 10:00 A.M.

RESCHEDULE TRIAL TO JULY 27, 2011 THROUGH JULY 28, 2011

AND PRE-TRIAL JULY JUNE 27, 2011

ANY PRE-TRIAL MOTIONS MUST BE FILED WITHIN 7 DAYS

Joshua A. Garner  
THE LAW OFFICE OF  
JOSHUA A. GARNER, PLLC  
P.O. Box 1014  
117 East Main  
Rexburg, ID 83440  
Telephone: (208) 359-3181  
Facsimile: (208) 359-5914  
ISBN: 7420

Attorney for Defendant

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF MADISON

STATE OF IDAHO,

Plaintiff,

v.

ARLYN ORR,

Defendant.

CASE NO.: CR-11-536

MINUTE ENTRY AND ORDER

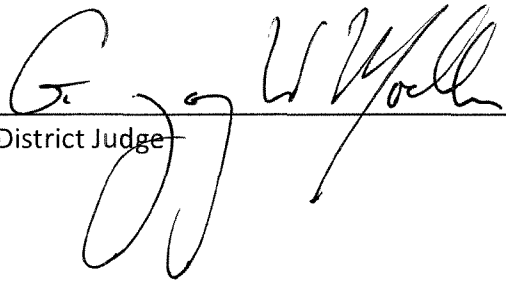
THIS MATTER having come before this Court pursuant to Defendant's Motion to Withdraw As Attorney of Record, and after hearing argument from counsel for the Defense and the State of Idaho, and, the parties' having met in chambers to discuss how the Defendant would like to proceed in this matter. Mr. Orr explained that is his desire to represent himself with Mr. Garner acting as a technical advisor to assist when requested. Therefore, it is hereby the Order of the Court as follows:

1. That Defendant's Motion is denied.
2. That Defendant's counsel, Joshua A. Garner, shall assist the Defendant, Arlynn Orr, in representing himself in this matter. Mr. Garner will as a <sup>legal</sup> ~~technical~~ advisor to Mr. Orr, and shall assist Mr. Orr when requested. Mr. Orr shall be allowed to represent himself.

*end Stand by Counsel  
GWN*

3. That the trial date in this matter is continued. Defendant shall have 7 days from June 13, 2011, to provide this Court with any pre-trial motions.

DATED this 14<sup>th</sup> day of June, 2011.

  
District Judge

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the \_\_\_\_ day of June, 2011, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

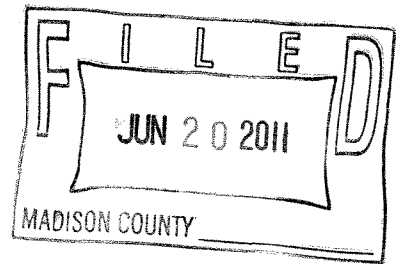
Office of the Prosecuting Attorney  
Sid Brown

- ☐ U.S. Mail
- ☐ Hand Delivered
- ☐ Facsimile to: 356-7839
- ☐ Overnight Mail

Joshua A. Garner  
The Law Office of Joshua A. Garner  
P.O. Box 1014  
Rexburg, Idaho 83440  
(Courthouse Mailbox)

\_\_\_\_\_  
Clerk

Joshua A. Garner  
THE LAW OFFICE OF  
JOSHUA A. GARNER, PLLC  
P.O. Box 1014  
117 East Main  
Rexburg, ID 83440  
Telephone: (208) 359-3181  
Facsimile: (208) 359-5914  
ISBN: 7420



Attorney for Defendant

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF MADISON

STATE OF IDAHO,

Plaintiff,

v.

ARLYN ORR,

Defendant.

CASE NO.: CR-11-536

MOTION TO SUPPRESS

COMES NOW the Defendant, ARLYNN ORR, by and through his attorney of record, Joshua A. Garner of The Law Office of Joshua A. Garner and does move the court for the following:

1. An Order suppressing the evidence obtained in the above-entitled matter pursuant to I.C.R. 41, for reason that the Defendant was deprived of his Fourth Amendment and Fifth Amendment rights. Specifically, Defendant moves this Court for an Order suppressing any statements made by Arlynn Orr after being taken into custody prior to being provided his Miranda rights.

This motion is made in good faith and not for the purpose of delay.

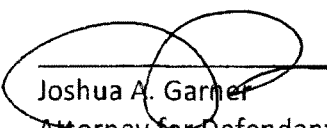
The Defendant further requests the right to present oral argument, testimony and evidence and to cross-examine the State's witnesses and his witnesses and affiants at a hearing on this matter.

MOTION TO SUPPRESS

MOTION TO SUPPR. PAGE 40

WHEREFORE, the Defendant prays for relief as here-above requested.

DATED this 18 day of June, 2011.

  
Joshua A. Garner  
Attorney for Defendant

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 18 day of June, 2011, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Office of the Prosecuting Attorney

- ☐ U.S. Mail
- ☐ Hand Delivered
- ☒ Facsimile to: 356-7389
- ☐ Overnight Mail

  
Joshua A. Garner

COURT MINUTES

CR-2011-0000536

State of Idaho vs. Arlyn V Orr

Hearing type: Pre-Trial

Hearing date: 6/27/2011

Time: 9:49 am

Judge: Gregory W Moeller

Courtroom: Brent J. Moss District Court

Court reporter: David Marlow

Minutes Clerk: Angie Wood

Tape Number:

Defense Attorney: Joshua Garner

Prosecutor: Sid Brown

1015 J INTRO

MR. ORR WILL REPRESENT HIMSELF AND MR. GARNER IS PRESENT TO ASSIST MR. ORR  
IF NECESSARY

COURT REVIEWS DEFENDANT'S MOTIONS

MR. ORR ARGUES HIS MOTIONS

MR. BROWN RESPONDS

COURT WILL RULE EXACTO KNIFE AND ANY OTHER KIND OF KNIFE IS NOT ADMISSABLE  
IN THIS TRIAL

MR. ORR ARGUES THAT UNLESS VIDEO HAS SOUND HE DOES NOT WANT THE JURY TO  
SEE THAT VIDEO

MR. BROWN RESPONDS

COURT WILL GRANT REQUEST THAT VIDEO AND AUDIO WILL BE SHOWN TO JURY IF  
NOT IN THE STATES CASE MR. ORR CAN SHOW IT

MR. ORR REQUESTS THAT HE BE ABLE TO REVIEW EVIDENCE IN PERSON BEFORE THE TRIAL

MR. BROWN DOES NOT OBJECT

COURT WILL GRANT THAT REQUEST

MR. ORR ARGUES BREATHALYZER RESULTS SHOULD BE SUPPRESSED

COURT WILL DENY REQEUST TO SUPPRESS RESULTS

MR ORR ARGUES THAT ARREST WAS ILLEGAL

MR. BROWN CALLS DEPUTY SHAWN SCOTT

1031 SA DX W-1 DEPUTY SHAWN SCOTT

STATES EXHIBIT 1 MARKED

IDENTIFIED AS DVD CONTAINING VIDEO AND AUDIO OF STOP BY SHAWN SCOTT AND CPL WRIGLEYS AUDIO AND VIDEO OF STOP AND PHOTOGRAPHS TAKEN BY DEPUTY SCOTT

STATE MOVES FOR ADMISSION OF EXHIBIT 1

NO OBJECTION

STATE'S EXHIBIT 1 IS ADMITTED

1056 D X W-1 DEPUTY SCOTT

218

MR. GARNER IS NO LONGER STANDBY COUNSEL BUT HE IS LEAD COUNSEL

218 SA DX W-2 DEPUTY DALLIN WRIGLEY

DA X W-2

256 SA RED W-2

258 DA

300 SA DX W-3 DEPUTY NATHAN J. SEVERINE

STATE'S EXHIBIT 2 MARKED

IDENTIFIED AS TWO COPIES OF SAME PRINTOUT - BREATHALYZER TEST

STATE MOVES FOR ADMISSION OF EXHIBIT 2

DA ASKS QUESTIONS IN AID OF OBJECTION

EXHIBIT 2 WILL BE ADMITTED BUT D MAY QUESTION THE RESULTS OF THE TEST

STATE'S EXHIBIT 3 MARKED

IDENTIFIED AS INSTRUMENT OPERATIONS LOG

STATE'S EXHIBIT 3 ADMITTED

MR. GARNER ARGUES MOTIONS

MR. BROWN ARGUES

ON 5<sup>TH</sup> AMENDMENT ISSUE MIRANDA HAS BEEN WAIVED

COURT FINDS THAT THERE IS CLEARLY PROBABLE CAUSE

ARREST LEGAL

INITIAL DETENTION LEGAL

MOTIONS DENIED

ISSUE ABOUT INTOXIMETER

MR. GARNER CAN CALL AN EXPERT WITNESS IN REGARDS TO WHETHER PEPPER SPRAY AFFECTS INTOX

MR. GARNER REQUESTS THAT EXPERT WITNESS BE APPOINTED

MR. BROWN REQUESTS THAT MR. GARNER NEEDS TO PROVIDE INFORMATION ABOUT EXPERT



COURT MINUTES

CR-2011-0000536

State of Idaho vs. Arlyn V Orr

Hearing type: Motion

Hearing date: 7/25/2011

Time: 9:50 am

Judge: Gregory W Moeller

Courtroom: Brent J. Moss District Court

Court reporter: David Marlow

Minutes Clerk: Angie Wood

Tape Number:

Defense Attorney: Joshua Garner

Prosecutor: Sid Brown

1004 J INTRO

NO OBJECTION TO MOTION TO AMEND INFORMATION

MR. BROWN EXPLAINS REASONS THEY ARE AMENDING INFORMATION TO MAKE IT  
CLEAR THAT STATE IS NOT ALLEDGING THAT DEFENDANT WAS DRIVING THE VEHICLE  
BUT THAT HE WAS IN THE VEHICLE AND IT WAS RUNNING

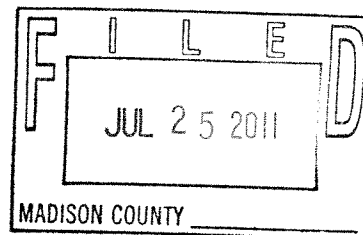
JURY WILL START AT 9:00 A.M. ON JULY 27, 2011

MR. GARNER REQUESTS THAT DEFENDANT BE ALLOWED TO WEAR STREET CLOTHES

COURT WILL ALLOW THAT

MR. GARNER TO PREPARE ORDER

Joshua A. Garner  
THE LAW OFFICE OF  
JOSHUA A. GARNER, PLLC  
P.O. Box 1014  
117 East Main  
Rexburg, ID 83440  
Telephone: (208) 359-3181  
Facsimile: (208) 359-5914  
ISBN: 7420



Attorney for Defendant

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF MADISON

STATE OF IDAHO,

Plaintiff,

v.

ARLYN ORR,

Defendant.

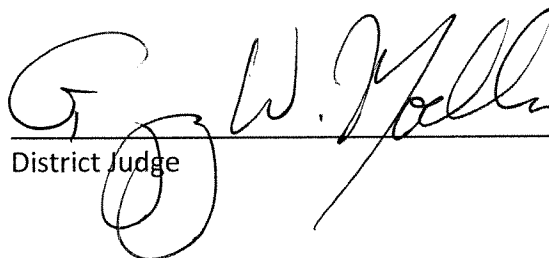
CASE NO.: CR-11-536

MINUTE ENTRY AND ORDER

THIS MATTER having come before this Court pursuant to Defendant's Motion, and upon review of the file and having heard argument, it is the Order of the Court as follows:

1. That Defendant shall be allowed to dress in street clothes for his jury trial. Defendant shall not be placed in the courtroom with the jury present in his jailhouse scrubs.

DATED this 25<sup>th</sup> day of July, 2011.

  
District Judge

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the \_\_\_\_ day of July, 2011, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Office of the Prosecuting Attorney  
Sid Brown

- ☐ U.S. Mail
- ☐ Hand Delivered
- ☐ Facsimile to: 356-7839
- ☐ Overnight Mail

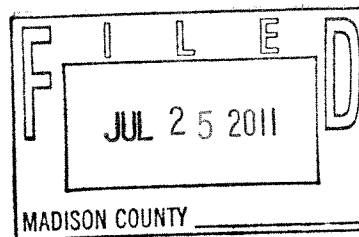
Joshua A. Garner  
The Law Office of Joshua A. Garner  
P.O. Box 1014  
Rexburg, Idaho 83440  
(Courthouse Mailbox)

---

Clerk

SID D. BROWN # 2726  
Madison County Prosecuting Attorney

159 East Main Street  
P. O. Box 350  
Rexburg, Idaho 83440  
(208) 356-7768



IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF MADISON

STATE OF IDAHO,

Plaintiff,

vs.

ARLYN VAL ORR,

Defendant.

Case No. CR-2011-00536

AMENDED PROSECUTING  
ATTORNEY INFORMATION

ARLYN VAL ORR, is accused by the Prosecuting Attorney of the County of Madison, State of Idaho, by this Information of committing, prior to the filing of this Information, the following crime(s):

COUNT I.  
PART ONE

OPERATING A VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL  
AND/OR DRUGS (SECOND DUI WITHIN FIFTEEN YEARS OF FELONY DUI CONVICTION),  
a FELONY

Idaho Code § 18-8004(1)(a), 18-8005(9)

The Defendant, ARLYN VAL ORR, on or about March 11, 2011, in the County of Madison, State of Idaho, was in actual physical control of a motor vehicle upon a highway or street or upon public or private property open to the public while under the influence of alcohol and/or drugs or other intoxicating substances and/or in the alternative, was in actual physical control of a motor vehicle upon a highway or street or upon public or private property open to the public while having an alcohol concentration of .08 or greater, as shown by an analysis of his blood, urine or breath.

COUNT I, PART TWO  
FELONY STATUS  
Idaho Code § 18-8005(9)

(Penalty: up to 10 years in prison and/or \$5,000 fine, and 1-5 year license suspension)

The Prosecuting Attorney for Madison County further informs the Court that, upon conviction, the Defendant, ARLYN VAL ORR, will have been convicted of a second violation of Idaho Code §18-8004 within fifteen (15) years, with the prior felony conviction for driving while under the influence, being a conviction for Felony DUI in Boise, Idaho in June, 2000, and is subject to the penalties for a felony offense.

COUNT II.  
POSSESSION OF AN OPEN CONTAINER OF ALCOHOL  
IN A MOTOR VEHICLE, a Misdemeanor  
Idaho Code, Section 23-505


(Punishment: Up to six months in the County Jail and/or up to \$1,000 fine)

The Defendant, ARLYN VAL ORR, on or about the March 11, 2011, in the County of Madison, State of Idaho, was in actual physical control of a motor vehicle while on a public highway or right of way of a public highway while drinking or possessing an open beverage containing alcoholic liquor or beer.

COUNT III  
RESISTING AND OBSTRUCTING OFFICERS, a Misdemeanor  
Idaho Code § 18-705  
(Punishment: Up to one year in the County Jail and up to \$1,000 fine)

The Defendant, ARLYN VAL ORR., on or about March 11, 2011, in the County of Madison, State of Idaho, did willfully resist, delay or obstruct a public officer in the discharge, or attempted discharge, of a duty of his office, to wit: by disobeying and resisting a lawful order to exit his vehicle and/or other lawful requests or commands of Deputy Shawn Scott and/or Deputy Dallin Wrigley of the Madison County Sheriff's Office.

DATED this 25<sup>th</sup> day of June, 2011.

  
\_\_\_\_\_  
Sid D. Brown, Prosecuting  
Attorney for Madison County

CERTIFICATE OF MAILING

I HEREBY CERTIFY that a true and correct copy of the foregoing AMENDED PROSECUTING ATTORNEY'S INFORMATION was on this date served upon the person named below, at the address set out below his name, by mailing to him a true and correct copy of said document at the address set out below.

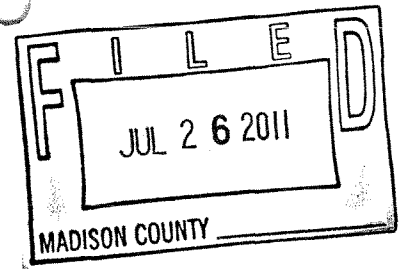
DATED this \_\_\_\_\_ day of June, 2011.

Joshua A. Garner  
Attorney at Law  
P.O. Box 1014  
Rexburg, Idaho 83440

\_\_\_\_\_  
Secretary

SID D. BROWN # 2726  
Madison County Prosecuting Attorney

Aaron V. Davis # 7527  
Deputy Prosecuting Attorney  
159 East Main Street  
P. O. Box 350  
Rexburg, Idaho 83440  
(208) 356-7768



IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF MADISON  
DISTRICT COURT

STATE OF IDAHO,	)	
	)	
Plaintiff,	)	Case No. CR-2011-00536
	)	
vs.	)	
	)	STATE'S WITNESS
ARLYN ORR,	)	AND EXHIBIT LIST
	)	
Defendant.	)	
	)	

The State submits the following as the witnesses and exhibits the State may present at the trial of the above action:

WITNESSES

1. Deputy Shawn Scott, Madison County Sheriff's Office;
2. Deputy Dallin Wrigley, Madison County Sheriff's Office;
3. Deputy Nathan Severine, Madison County Sheriff's Office;
4. Lee Barnes of South Fork Towing;
5. Lt. Lyle Rasmussen, Madison County Sheriff's Office;
6. Doug Gardner, Idaho Department of Corrections;
7. Rachael Cutler, ISP Forensic Lab.

## EXHIBITS

1. Recordings from Deputy Shaw Scott and Deputy Dallin Wrigley's vehicle cameras.
2. Deputy Nathaniel J. Severine's Operators certificate for Life Loc FC 20.
3. Instrument Operations Log for the FC 20.
4. Print out from FC 20 in the Defendants case.
5. Penitentiary Packet.
6. Any correspondence or records from the Department of Corrections or other separate copies of Judgment of Convictions of the previous felony.
7. Map Madison County
8. Can of O.C. Spray.

DATED this 26<sup>th</sup> day of July, 2011.




Sid D. Brown, Prosecuting  
Attorney for Madison County

## CERTIFICATE OF MAILING

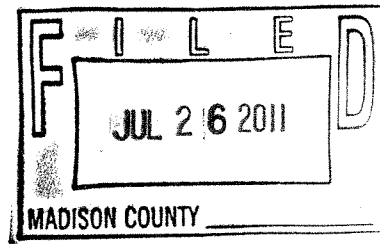
I hereby certify that on the 26<sup>th</sup> day of July, 2011, I mailed a true copy of the foregoing STATE'S WITNESS AND EXHIBIT LIST to following person(s):

Joshua A. Garner  
Attorney at Law  
P.O. Box 1014  
Rexburg, Idaho 83440

  
Secretary



Joshua A. Garner  
THE LAW OFFICE OF  
JOSHUA A. GARNER, PLLC  
P.O. Box 1014  
117 East Main  
Rexburg, ID 83440  
Telephone: (208) 359-3181  
Facsimile: (208) 359-5914  
ISBN: 7420



Attorney for Defendant

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF MADISON

STATE OF IDAHO,

Plaintiff,

v.

ARLYN ORR,

Defendant.

CASE NO.: CR-11-536

DEFENDANT'S WITNESS LIST

COMES NOW, the Defendant, Arlyn Orr, by and through his attorney of record, Joshua A. Garner of The Law Office of Joshua A. Garner, and submits the following witness list:

1. WITNESS LIST:

a. Arlyn Orr

DATED this 26 day of July, 2011.

The Law Office of Joshua A. Garner, PLLC

Attorney for Defendant

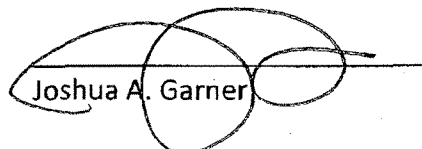
Joshua A. Garner

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 26 day of July, 2011, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Office of the Prosecuting Attorney

- ☐ U.S. Mail
- ☐ Hand Delivered
- ☒ Facsimile to: 356-7839
- ☐ Overnight Mail

  
Joshua A. Garner

COURT MINUTES

CR-2011-0000536

State of Idaho vs. Arlyn V Orr

Hearing type: Jury Trial

Hearing date: 7/27/2011

Time: 9:03 am

Judge: Gregory W Moeller

Courtroom: Brent J. Moss District Court

Court reporter: David Marlow

Minutes Clerk: Angie Wood

Tape Number:

Defense Attorney: Joshua Garner

Prosecutor: Sid Brown

917 J INTRO

COURT CALLS ROLL

THE FOLLOWING JURORS FAILED TO APPEAR

JEFFREY PAUL ASHCRAFT

TIFFANY FAE BARTON

MICHAEL FRED DOUGLASS

JODI L. MCGARRY HARRIS

DEVIN R. HILL

ROBERT DANIEL MCWHORTER

BRYNNE MARIE MORLEY

HEATHER LEE POCOCK

MINUTE ENTRY (JURY TRIAL)

PAGE 55

ENTIRE PANEL SWORN

ALL POTENTIAL JURORS SAID YES

STATE AND DEFENSE PASS JURY

PARTIES EXERCISE THEIR PEREMPTORY CHALLENGES

RUSSELL RICKS

JANEAL THOMAS

ERIC OSTERMILLER

KAREN BETTS

KEVIN STANGER

JOHN HICKMAN

MELISSA POCOCK

CLIFFORD HANSEN

KENT FALER

KELLY HUNTSMAN

KENT VANWAGNER

KYLIE PIERCE

CONNIE BIRD

KERRY WARD

FINAL 13 JURORS PLACED UNDER OATH

JURORS EXCUSED FOR LUNCH

111 J BACK ON THE RECORD AFTER LUNCH

ALL PARTIES PRESENT

JURORS NOT PRESENT YET

NO OBJECTION TO PRELIMINARY JURY INSTRUCTIONS

JURORS ARE PRESENT NOW

PRELIMINARY INSTRUCTIONS GIVEN TO THE JURORS

MR. BROWN MAKES OPENING STATEMENT

MR. GARNER MAKES OPENING STATEMENT

149 SA DX W-1 LEE BARNES, SOUTHFORK TOWING

STATE'S EXHIBIT 1 MARKED

IDENTIFIED AS - MAP OF MADISON COUNTY CRESS CREEK

ADMITTED WITHOUT OBJECTION FOR ILLUSTRATIVE PURPOSES

MR. GARNER CROSS EXAMINES W-1

BRIEF RECESS

214 TIFFANY BARON PRESENT

HAD DAY WRONG ON HER CALENDAR

COURT WILL EXCUSE HER

216 JURORS PRESENT AND IN ASSIGNED SEATS

ATTORNEYS STIPULATE

216 SA DX W-2 DEPUTY SHAWN SCOTT

STATE'S EXHIBIT 2-6 MARKED

IDENTIFIED AS

2 PHOTOGRAPH OF CRESS CREEK PARKING AREA

3 PHOTOGRAPH

4 PHOTOGRAPH

5 PHOTOGRAPH

6 PHOTOGRAPH

STATES MOVES FOR ADMISSION OF STATE'S EXHIBIT 2-6

ADMITTED WITHOUT OBJECTION

STATES EXHIBIT 7 MARKED

IDENTIFIED AS DVD OF STOP OF DEFENDANT BY DEPUTY SHAWN SCOTT ONLY

STATE'S EXHIBITS 8 THROUGH 18 MARKED AND HANDED TO THE WITNESS

STATE'S EXHIBIT 8-18 IDENTIFIED AS PHOTOGRAPH TAKEN OF MR. ORR'S VEHICLE

8 THROUGH 18 ADMITTED WITHOUT OBJECTION

JURY IS EXCUSED FOR AFTERNOON RECESS

333 JEFFREY PAUL ASHCRAFT APPEARS LATE FOR JURY DUTY

EXPLAINS HE FORGOT

COURT WILL EXCUSE JUROR

334 BRYNNE MARIE MORLEY

EXPLAINS THAT SHE FORGOT

COURT WILL EXCUSE JUROR

MOVING TO FLORIDA

348 BACK FROM BREAK

ALL JURORS PRESENT AND IN THEIR ASSIGNED SEATS

STATE'S EXHIBIT 19 AND 20 MARKED

STATES EXHIBIT 19 IDENTIFIED AS TRUE AND CORRECT COPY OF NOTICE OF  
SUSPENSION

STATES EXHIBIT 20 IDENTIFIED AS INTOX RESULTS

WITNESS HANDED COPY OF REPORT

428 SA DX W-3 DEPUTY DALLIN WRIGLEY

STATE MOVES FOR THE ADMISSION OF EXHIBIT – PORTION OF DEPUTY WRIGLEYS

COURT WILL RECESS FOR THE EVENING

COURT WILL START AGAIN AT 9:00 A.M.

JURY IS ADMONISHED NOT TO DISCUSS CASE

COURT MINUTES

CR-2011-0000536

State of Idaho vs. Arlyn V Orr

Hearing type: Jury Trial

Hearing date: 7/27/2011

Time: 8:50 am

Judge: Gregory W Moeller

Courtroom: Brent J. Moss District Court

Court reporter: David Marlow

Minutes Clerk: Angie Wood

Tape Number:

Defense Attorney: Joshua Garner

Prosecutor: Sid Brown

904 J INTRO

SA CONTINUES WITH DIRECT EXAMINATION OF DEPUTY WRIGLEY

COURT REMINDS WITNESS HE IS UNDER OATH

STATE'S EXHIBIT 21 MARKED

IDENTIFIED AS OC SPRAY

STATE MOVES FOR ADMISSION OF EXHIBIT 21 ADMITTED WITHOUT OBJECTION

COURT EXCUSES JURY TO DISCUSS MATTER WITH COUNSEL

RULING WILL BE SUSTAIN OBJECTION TELL JURY THAT OBJECTION IS BEING SUSTAINED

NONE OF THE OFFICERS CAN TESTIFY TO YOU WHAT THE LAW IS IT IS UP TO THE  
COURT TO DO THAT

922 JURY HAS RETURNED

938 DA X W- DEPUTY DALLIN WRIGLEY



949 SA RED DEPUTY DALLIN WRIGLEY

952 SA DX W-4 DEPUTY NATHAN SEVERINE

STATES EXHIBIT 22 MARKED

IDENTIFIED AS COPY OF DEPUTY SEVERINES CERTIFICATION CARD

STATES EXHIBIT 22 ADMITTED WITHOUT OBJECTION

STATES'E EXHIBIT 19 HAS BEEN MARKED BUT NOT ADMITTED IS HANDED TO THE  
WITNESS

STATE MOVES FOR THE ADMISSION OF EXHIBIT 19

STATE'S EXHIBIT 19 ADMITTED WITHOUT OBJECTION

STATE'S EXHIBIT 20 ADMITTED WITHOUT OBJECTION

STATE'S EXHIBIT 23 MARKED

IDENTIFIED AS OPERATION LOG FOR FC20

STATE'S EXHIBIT 23 ADMITTED WITHOUT OBJECTION

1013 DA X W- DEPUTY SEVERINE

1016 SA RED W- DEPUTY SEVERINE

1037 BACK ON THE RECORD

RECORD REFLECTS THAT ALL JURORS ARE BACK

1043 STATE CALLS RACHEL CUTLER – SWORN IN W-5

EXHIBITS 20, 23, 21

1103 DA QUESTIONS W-5 – RACHEL CUTLER

REDIRECT W-5

EXCUSE W-5 RACHEL CUTLER

LUNCH BREAK – EXCUSED JURORS UNTIL 12:30

1235 BACK FROM LUNCH BREAK

COURT WILL TAKE UP A COUPLE OF MOTIONS

STATE MOVES TO FILE SECOND AMENDED INFORMATION TO THE COURT

NO OBJECTION FROM THE DEFENDANT

SECOND INFORMATION WILL BE THE OFFICIAL INFORMATION USED

STATE WILL REST

MR. GARNER MAKES MOTION FOR DIRECTED VERDICT IN REGARDS TO OPEN  
CONTAINER CHARGE

MR. BROWN OBJECTS TO MOTION

COURT WILL DENY MOTION

COURT WILL REVISIT RULING ON JUNE 27, 2011

BASED UPON EVIDENCE TO DATE COURT DOES FIND THAT AT THE TIME DEFENDANT  
WAS REQUESTED TO SUBMIT TO FIELD SOBRIETY TEST OFFICERS DID HAVE  
REASONABLE GROUNDS TO DO SO

COURT INQUIRES OF DEFENDANT

DEFENDANT STATES THAT HE WILL TESTIFY

COURT QUESTIONS DEFENDANT

COURT FINDS DEFENDANT HAS KNOWINGLY AND FREEILY MADE THE DECISION TO  
TESTIFY

1245 JURY HAS RETURNED

STATE RESTS

1246 DA DX W- ARLYN VAL ORR

102 SA X W- ARLYN VAL ORR

141 DA RED W- ARLYN VAL ORR

DEFENSE RESTS

STATE RESTS

JURY TOLD NOT TO DISCUSS CASE

MEET IN CHAMBERS AT 2:00 pm for informal Jury Conference

BACK ON THE RECORD

1-8 HAVE HARDLY BEEN GIVEN

9, 10, 11, 12, 13, 14, GIVEN

15 NOT GIVEN 16 GIVEN AS MODIFIED

17,18,19,20,21,22 MODIFIED

23,24,25,26,27,28,29,30,

31 MODIFIED TO SHOW CASE NUMBER

32 MODIFIED CONTAIN CASE NUMBER

33 GIVEN

90 NOT GIVEN

91,92,93,94 NOT GIVEN

95 NOT GIVEN

VERDICT FORM AND SPECIAL VERDICT WILL BE GIVEN

SUPPLEMENTAL TO ORIGINAL PACKET WAS #50 WILL BE GIVEN BY STIPULATION

51 GIVEN BY STIPULATION

LIST OF PROPOSED JURY INSTRUCTION BY DA WILL BE GIVEN EXCEPT

109 AND 110 WILL BE GIVEN AS THEY ARE STANDARD JURY INSTRUCTIONS

301 AND 302 WILL NOT BE NECESSARY

ORDER WILL BE MODIFIED

STATE OBJECTS TO 26

MR. GARNER RESPONDS AND HAS NO OBJECTIONS TO JURY INSTRUCTION AND BELIEVES  
26 SHOULD BE GIVEN

COURT WILL GIVE INSTRUCTION 26 DENY STATES OBJECTION

319 BACK ON THE RECORD

JURY PRESENT AND IN THEIR CORRECT SEATS

ATTORNEYS STIPUALTE TO JURORS

COURT WILL GIVE FINAL JURY INSTRUCTIONS

STATE OF IDAHO MAKES CLOSING REMARKS

407 MR. GARNER MAKES CLOSING ARGUMENTS

421 MR. BROWN MAKES REBUTTAL ARGUMENT

VERDICT FORM GIVEN TO BALLIFF

BALIFF PLACED UNDER OATH

444 ON THE RECORD JURY IS DELIBERATING

A LAP TOP HAS BEEN FOUND TO BE MADE AVAILABLE TO THE JURY TO VIEW DVD

BASED UP STIPULATION THE COURT WOULD HAVE NO PROBLEM ALLOWING THE DVD  
TO BE PLAYED ON THE LAP TAP BUT WHEN THE LAP TOP IS NOT BEING USED IT WILL  
NOT BE IN THE ROOM

543 JURY HAS REACHED A VERDICT

IT THE JURY COMES BACK WITH A GUILTY VERDICT THE DEFEDNANT WILL STIPULATE  
TO THE FELONY STATUS

JURY HAS NOW RETURNED

ATTORNEY WILL STIPULATE THAT JURORS HAVE RETURNED

JURORS HAVE REACHED A VERDICT

DEFENDANT FOUND GUILTY TO DUI, AND RESISTING OR OBSTRUCTING

NOT GUILTY TO OPEN CONTAINER

DEFENDANT WILL STIPULATE TO FELONY STATUS

DEFENDANT PLACED UNDER OATH

COURT INQUIRES OF DEFENDANT

DEFENDANT ENTERS GUILTY PLEA TO FELONY STATUS

STATE WILL AGREE TO FACTUAL FOUNDATION FOR PLEA

PLEA ENTERED KNOWINGLY, FREEILY AND VOLUNTARILY

FELONY CONVICTION LODGED

PSI ORDERED AND SUBSTANCE ABUSE EVAL UNDER 19-2524

MENTAL HEALTH ASSESSMENT ORDERED UNDER 19-2524 TO BE DONE BY IDOC

SET FOR SENTENCING AUGUST 29, 2011 AT 9;30 A.M.

RESET (Clerk, check if applicable)

ORIGINAL OF THIS DOCUMENT TO IDOC

Assigned to: \_\_\_\_\_  
Assigned: \_\_\_\_\_ Due Date: \_\_\_\_\_

SEVENTH JUDICIAL DISTRICT COURT, STATE OF IDAHO  
IN AND FOR MADISON COUNTY

STATE OF IDAHO,  
Plaintiff,

vs.

Arlyn V Orr  
5031 Tildy Lane  
Idaho Falls, ID 83401  
Defendant.

DOB: \_\_\_\_\_  
DL or SSN: \_\_\_\_\_

Telephone: \_\_\_\_\_

) Case No: CR-2011-0000536

) ORDER FOR PRESENTENCE REPORT

) Charge(s): Driving Under the Influence-(Two or More  
) Offenses) I18-8004 F Resisting or Obstructing  
) Officers I18-705

On this Thursday, July 28, 2011, a **Pre-Sentence Investigation Report** was ordered by the Honorable Gregory W Moeller to be completed for court appearance on **Monday, August 29, 2011 at: 09:00 AM.**

Judge's Comments: \_\_\_\_\_

**EVALUATIONS TO BE DONE:** (Check Required Evaluation) Copy of Evaluation to be sent to Presentence Investigation Office

☒ Under § 19-2524 screening(s) are ordered. ☒ Mental Health ☒ Substance Abuse  
Full clinical assessments will be completed if indicated in screenings

☐ Sex Offender ☐ Drug & Alcohol ☐ Domestic Violence ☐ Other \_\_\_\_\_

☒ Evaluator: IDOC \_\_\_\_\_

DEFENSE COUNSEL: Joshua A Garner PROSECUTOR: Sid D Brown

THE DEFENDANT IS IN CUSTODY: ☐ NO ☒ YES If yes where: \_\_\_\_\_

**PLEA AGREEMENT:** ☒ NO ☐ YES

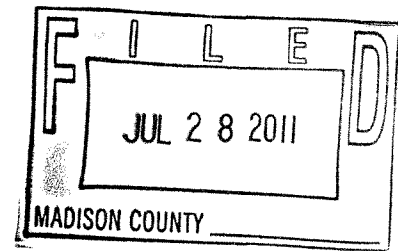
\*\*\*\*\*

**ATTENTION DEFENDANT: IT IS ORDERED** that after you leave the courthouse TODAY you contact Brenda Hammon, the Pre-Sentence Investigator, (208) 356-3772, ext. 23, at the Department of Probation and Parole, located at 310 North 2<sup>nd</sup> East #115 Rexburg, to schedule an interview. IT IS FURTHER ORDERED that you furnish the Pre-Sentence Investigator with any information needed to complete the investigation. Please have your Pre-Sentence Investigation Personal History Questionnaire filled out completely prior to your interview. If you fail to comply with this Order, a bench warrant will be issued for your arrest.

Date: 07/28/2011 Signature: /s/ GREGORY W MOELLER  
Judge

SID D. BROWN # 2726  
Madison County Prosecuting Attorney

159 East Main Street  
P. O. Box 350  
Rexburg, Idaho 83440  
(208) 356-7768



IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF MADISON

STATE OF IDAHO,

Plaintiff,

vs.

ARLYN VAL ORR,

Defendant.

Case No. CR-2011-00536

2<sup>ND</sup> AMENDED PROSECUTING  
ATTORNEY INFORMATION

ARLYN VAL ORR, is accused by the Prosecuting Attorney of the County of Madison, State of Idaho, by this Information of committing, prior to the filing of this Information, the following crime(s):

COUNT I.  
PART ONE

OPERATING A VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL  
AND/OR DRUGS (SECOND DUI WITHIN FIFTEEN YEARS OF FELONY DUI CONVICTION),  
a FELONY

Idaho Code § 18-8004(1)(a), 18-8005(9)

The Defendant, ARLYN VAL ORR, on or about March 11, 2011, in the County of Madison, State of Idaho, was in actual physical control of a motor vehicle upon a highway or street or upon public or private property open to the public while under the influence of alcohol and/or drugs or other intoxicating substances and/or in the alternative, was in actual physical control of a motor vehicle upon a highway or street or upon public or private property open to the public while having an alcohol concentration of .08 or greater, as shown by an analysis of his blood, urine or breath.

COUNT I, PART TWO  
FELONY STATUS  
Idaho Code § 18-8005(9)

(Penalty: up to 10 years in prison and/or \$5,000 fine, and 1-5 year license suspension)

The Prosecuting Attorney for Madison County further informs the Court that, upon conviction, the Defendant, ARLYN VAL ORR, will have been convicted of a second violation of Idaho Code §18-8004 within fifteen (15) years, with the prior felony conviction for driving while under the influence, being a conviction for Operating a Motor Vehicle While Under the Influence of Alcohol and/or Drugs (Two of more Within Five Years, a Felony in violation of Idaho Code § 18-8004, 05(5), a Felony in Case # H9900235, Ada County, Idaho, dated June 14, 2000, and filed June 21, 2000, and is subject to the penalties for a felony offense.

COUNT II.  
POSSESSION OF AN OPEN CONTAINER OF ALCOHOL  
IN A MOTOR VEHICLE, a Misdemeanor  
Idaho Code, Section 23-505

(Punishment: Up to six months in the County Jail and/or up to \$1,000 fine)

The Defendant, ARLYN VAL ORR, on or about the March 11, 2011, in the County of Madison, State of Idaho, was in actual physical control of a motor vehicle while on a public highway or right of way of a public highway while drinking or possessing an open beverage containing alcoholic liquor or beer.

COUNT III  
RESISTING AND OBSTRUCTING OFFICERS, a Misdemeanor  
Idaho Code § 18-705  
(Punishment: Up to one year in the County Jail and up to \$1,000 fine)

The Defendant, ARLYN VAL ORR., on or about March 11, 2011, in the County of Madison, State of Idaho, did willfully resist, delay or obstruct a public officer in the discharge, or attempted discharge, of a duty of his office, to wit: by disobeying and resisting a lawful order to exit his vehicle and/or other lawful requests or commands of Deputy Shawn Scott and/or Deputy Dallin Wrigley of the Madison County Sheriff's Office.



DATED this 28<sup>th</sup> day of July, 2011.



Sid D. Brown, Prosecuting  
Attorney for Madison County

CERTIFICATE OF MAILING

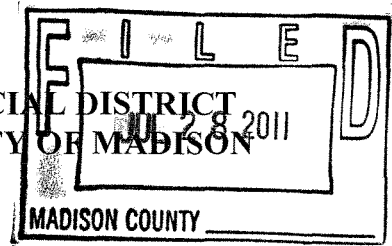
I HEREBY CERTIFY that a true and correct copy of the foregoing 2<sup>nd</sup> AMENDED PROSECUTING ATTORNEY'S INFORMATION was on this date served upon the person named below, at the address set out below his name, by mailing to him a true and correct copy of said document at the address set out below.

DATED this \_\_\_\_\_ day of July, 2011.

Joshua A. Garner  
Attorney at Law  
P.O. Box 1014  
Rexburg, Idaho 83440

\_\_\_\_\_  
Secretary

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO IN AND FOR THE COUNTY OF MADISON



STATE OF IDAHO,

Plaintiff,

v.

ARLYN VAL ORR,

Defendant.

Case No. CR-2011-536

VERDICT

We, the Jury, duly empaneled and sworn to try the above entitled action, for our verdict,  
unanimously answer the questions submitted to us as follows:

**QUESTION NO. 1:** Is ARLYN VAL ORR guilty or not guilty

of Operating a Motor Vehicle While Under the Influence of Alcohol and/or Drugs?

Not Guilty \_\_\_\_\_ Guilty X

**QUESTION NO. 2:** Is ARLYN VAL ORR guilty or not guilty

of Possession of an Open Container of Alcohol?

Not Guilty X Guilty \_\_\_\_\_

**QUESTION NO. 3:** Is ARLYN VAL ORR guilty or not guilty

of Resisting and Obstructing Officers?

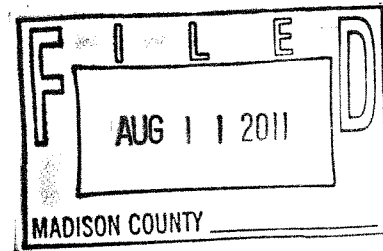
Not Guilty \_\_\_\_\_ Guilty X

DATED this 28 day of July, 2011.

Roger L. Harris  
Presiding Juror

Arlyn VAL Orr  
Full Name/Prisoner Name

145 E. Main  
Madison County Jail  
Rexburg ID 83440  
Complete Mailing Address



Plaintiff/Defendant  
(circle one)

MOTION For Appellate  
Review : NOTICE to Appeal

Arlyn VAL Orr )  
Plaintiff/Petitioner, )  
(Full name and prisoner number. )

CASE NO. CR-2011-00536

vs. )

State of IDAHO )

UNETHICAL  
JURY PERSUASION.  
DENIAL Due Process

Defendant/Respondent(s), )  
(Full name(s). Do not use et. al.) )

COMES NOW, Arlyn VAL Orr Plaintiff Defendant (circle one) in the above entitled

IT IS INDEED My Complaint THE STATE HAS  
Engaged in UNETHICAL jury persuasion Contrary  
To Rule.. 24.3 (b) presentation of testimony  
Known to be perjury.. ABOUT A defendant's  
Wife. The Statement was Fundamentally  
UNtrue. Defendant is -1

NOT Married.. -pg. 1

NOTICE OF APPEAL  
PAGE 71

Such a contrivance by A State to procure a conviction and imprisonment depriving a defendant of liberty through deliberate deception of Court and jury by the presentation of testimony known to be purjured known as the brady rule.. Extended by the Mooney principle Rule 24.3 (c) THE States obligation not to use known to be false testimony and not let the known false testimony of its witness to stand uncorrected.

' This Ruling is not based on good Faith or bad Faith but the impact of the prosecutors Actions MATTERS not IF the State Engaged in negligence or willfull misconduct.. Furthermore..

\* THE STATE IN THIS pretty Hog Contest Allowed itself To Give Their Hog a manicure and A Bath And A Ribbon To Adorn and too CAST A Few of ITS ugly warts upon THIS Case CR-2011-0000536

\* THE STATE Failed to disclose How A Tow TRUCK operator could benefit IN business Dealings with Law

ENforcement.. \* Did not Show THE Video Either of Snake River Towing. -pg. 2

\* THE STATE FAILED to mention THAT it  
scrubbed an illegal question from  
THE audio in Corporal Wrigley's Car.

\* EVEN THE TYPE OF MUSIC HIS Stereo plays.

\* My Attorney and I presented and  
settled on a defence of relevant  
issues.

\* My Concern NOW IS THAT the jury was  
persuaded By Deception, Half Truth  
and insinuation. Rather than issues  
of relevance. Another interesting Fact

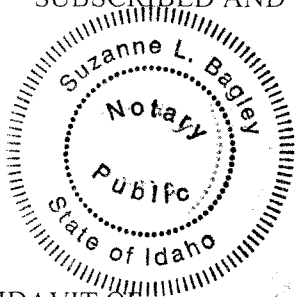
\* THE STATE did NOT dispute THE defendants  
claim.. THAT They Had Forced his vehicle Towed  
and Locked up his dog while he had .000 BAC.

Further your affiant sayeth naught. <sup>THIS occurred (ON or ABOUT 1/16/2009)</sup>

DATED This 8 day of August, 2011.

Cuba Owens  
Signature

SUBSCRIBED AND SWORN To before me this 8 day of Aug, 2011.



Suzanne L. Begley  
Notary Public for Idaho  
Commission expires: 05-04-2011

AFFIDAVIT OF \_\_\_\_\_ - pg. \_\_\_\_\_  
Revised 10/24/05

COURT MINUTES

CR-2011-0000536

State of Idaho vs. Arlyn V Orr

Hearing type: Sentencing

Hearing date: 8/29/2011

Time: 9:53 am

Judge: Gregory W Moeller

Courtroom: Brent J. Moss District Court

Court reporter: David Marlow

Minutes Clerk: Angie Wood

Tape Number:

Defense Attorney: Joshua Garner

Prosecutor: Sid Brown

1016 J      INTRO

COURT REVIEWS CASE

MR. GARNER ARGUES FOR TREATMENT

MR. BROWN ARGUES FOR INCARCERATION

MR. ORR MAKES STATEMENT TO THE COURT

MR. ORR IS SATISFIED WITH COUNSEL

GUILTY OF 2<sup>ND</sup> OFFENSE DUI AND OBSTRUCTING OR RESISTING OFFICERS

COUNT 1 UNIFIED 10 YEARS FIXED 3 YEARS INDET 7 YEARS

COUNT 3 180 DAYS

SENTENCES TO RUN CONCURRENT WITH CREDIT FOR TIME SERVED

RECOMMENDS THERAPUTIC COMMUNITY

FINE \$1000 ON DUI, \$200 ON RESISTING

MINUTE ENTRY (SENTENCING)

PAGE 74

\$150.50 CC

\$50.50 CC

\$75.00 VICTIM

\$37.00 VICTIM

\$1500 FOR PUBLIC DEFENDER

\$10.00 DRUG HOT LINE FEE

\$30.00

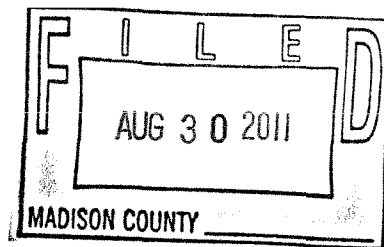
\$15.00 INTERLOCK FEE

D/L SUSP FOR 3 YEARS

MUST HAVE INTERLOCK DEVICE INSTALLED ON VEHICLE DURING ENTIRE LENGTH OF  
SENTENCE

ADVISED OF RIGHT TO APPEAL, RULE 35 AND POST CONVICTION

DEFENDANT HAS FILED APPEAL



IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF MADISON

STATE OF IDAHO,

Plaintiff,

vs.

ARLYN VAL ORR,  
IDOC# 60597

Defendant.

Case No. CR-2011-0000536

**JUDGMENT OF CONVICTION**

On the 4th day of April 2011, Arlyn Val Orr was arraigned before the Honorable Gregory W. Moeller, District Judge of the Seventh Judicial District Court in and for the County of Madison. The defendant was fully informed by the Court of the nature of the charges: Count 1, Operating a Vehicle While Under the Influence of Alcohol and/or Drugs, felony as set forth in the Information, a violation of Idaho Code Section 18-8004(1)(a), which was committed on or about March 11, 2011; Count II, Possession of an Open Container of Alcohol In a Motor Vehicle, misdemeanor as set forth in the Information, a violation of Idaho Code Section 23-505, which was committed on or about March 11, 2011; and Count III, Resisting and Obstructing Officers, misdemeanor as set forth in the Information, a violation of Idaho Code Section 18-705, which was committed on or about March 11, 2011. The defendant entered a plea of not guilty to all the charges

A trial by jury was held and on July 28, 2011 the jury returned a verdict of guilty to the charge of Operating a Vehicle While Under the Influence of Alcohol and/or Drugs (Count I) and Resisting and Obstructing Officers (Count II). The defendant was found not guilty on the charge of Open Container of Alcohol In a Motor Vehicle (Count II).

On the 29th day of August, 2011 the Prosecuting Attorney appeared together with the above named defendant and his counsel of record, Joshua Garner, for the pronouncement of the sentence upon the defendant. Counsel for the defendant was provided the opportunity to speak on behalf of the defendant and the Court addressed the defendant personally and advised the defendant of his right to make a statement in his own behalf and to present any information in mitigation of punishment. The defendant was asked if there was any legal cause why sentence should not be pronounced and no sufficient cause was given. Based upon the foregoing, together with all the evidence before the Court, and the Court being fully advised in the law and the premises:



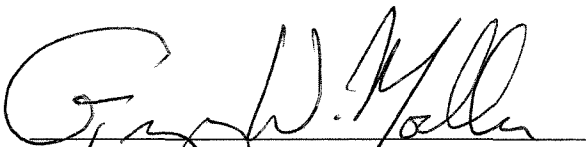
IT IS ORDERED, ADJUDGED AND DECREED that the defendant is guilty of the crimes as charged in the Information on Count I and Count III. In execution thereof, IT IS FURTHER ORDERED, that the defendant be sentenced on Count I to the custody of the Idaho State Board of Corrections for a unified sentence of ten (10) years, consisting of a minimum three (3) years fixed; which shall be followed by an indeterminate period not to exceed seven (7) years. The defendant shall be given credit for all time previously served on this charge. IT IS FURTHER ORDERED, that the defendant be sentenced on Count III to 180 days of local incarceration with credit for time served. These sentences will be served concurrently.

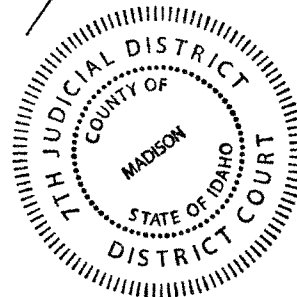
The court recommends that the defendant be afforded an opportunity to participate in the therapeutic community.

On Count I a fine of \$1000.00 shall be imposed. Defendant must pay \$150.50 Court costs, \$75.00 to the Victim's Relief Fund, \$10.00 Drug Hotline Fee, \$30.00 Domestic Violence Court Fee, and \$15.00 Interlock Fee. On Count II a fine of \$200.00 shall be imposed. Defendant must pay \$50.50 Court Costs and \$37.00 to the Victim's Relief Fund. The defendant shall pay \$1500.00 reimbursement to the County for public defender services. The defendant shall pay restitution in an amount to be determined.

The defendant shall be remanded to the custody of the Sheriff of Madison County for incarceration in the Madison County Jail pending transport. The defendant shall then be delivered to the custody of the Director of the State Board of Corrections.

Dated this 29<sup>th</sup> day of August, 2011.

  
GREGORY W. MOELLER  
District Judge



CERTIFICATE OF SERVICE

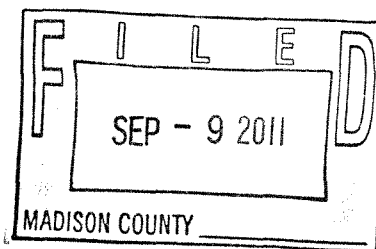
I hereby certify that on this 29<sup>th</sup> day of August, 2011 I did send a true and correct copy of the foregoing document upon the parties listed below by mailing, with the correct postage thereon; by causing the same to be placed in the respective courthouse mailbox; or by causing the same to be hand-delivered.

State  
Defense Counsel  
Probation and Parole  
Sheriff Office - Jail  
IDOC

KIM H. MUIR  
Clerk of the District Court  
Madison County, Idaho

By A Wood  
Deputy Clerk

Inmate name ARLYN VAL ORR  
IDOC No. 60597  
Address FREMONT COUNTY Jail  
Awaiting Transport to IDOC



Defendant-Appellant

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF MADISON

ARLYN VAL ORR, )  
Petitioner-Appellant, )  
vs. )  
STATE OF IDAHO, )  
Respondent . )

Case No. CR-2011-536<sup>00</sup>

**MOTION AND AFFIDAVIT IN  
SUPPORT FOR  
APPOINTMENT OF  
COUNSEL**

COMES NOW, ARLYN VAL ORR, Petitioner-Appellant in the  
above entitled matter and moves this Honorable Court to grant Defendant-Appellant's Motion  
for Appointment of Counsel for the reasons more fully set forth herein and in the Affidavit in  
Support of Motion for Appointment of Counsel.

1. Petitioner-Appellant is currently incarcerated within the Idaho Department of  
Corrections under the direct care, custody and control of Warden AWAITING TRANSPORT  
of the FREMONT COUNTY Jail  
IDAHO DEPARTMENT OF CORRECTIONS 146 N. 2ND WEST  
STAN-HONY ID 83445

2. The issues to be presented in this case may become to complex for the Petitioner-  
Appellant to properly pursue. Petitioner-Appellant lacks the knowledge and skill needed to  
represent him/herself.

MOTION AND AFFIDAVIT IN SUPPORT FOR APPOINTMENT OF COUNSEL - 1

3. Petitioner-Appellant required assistance completing these pleadings, as he/she was unable to do it him/herself.

4. Other: \_\_\_\_\_.

DATED this 7 day of SEPTEMBER, 20 11.

  
Petitioner-Appellant

### AFFIDAVIT IN SUPPORT FOR APPOINTMENT OF COUNSEL

STATE OF IDAHO                    )  
                  518-806725        ) ss  
County of MADISON        )

ARLYN VAL ORR, after first being duly sworn upon his/her oath, deposes and says as follows:

1. I am the Affiant in the above-entitled case;
2. I am currently residing at the FREMONT County Jail / TRANSPORT <sup>Awaiting</sup> IDOC under the care, custody and control of Warden IDAHO DEPARTMENT OF Corrections
3. I am indigent and do not have any funds to hire private counsel;
4. I am without bank accounts, stocks, bonds, real estate or any other form of real property;
5. I am unable to provide any other form of security;
6. I am untrained in the law;

MOTION AND AFFIDAVIT IN SUPPORT FOR APPOINTMENT OF COUNSEL - 2  
Revised: 10/17/05

7. If I am forced to proceed without counsel being appointed I will be unfairly handicapped in competing with trained and competent counsel of the State;

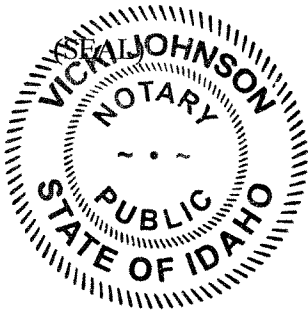
Further your affiant sayeth naught.

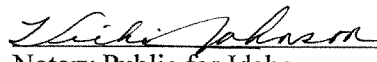
WHEREFORE, Petitioner-Appellant respectfully prays that this Honorable Court issue it's Order granting Petitioner-Appellant's Motion for Appointment of Counsel to represent his/her interest, or in the alternative grant any such relief to which it may appear the Petitioner-Appellant is entitled to.

DATED This 7 day of SEPTEMBER, 20 11.

  
\_\_\_\_\_  
Petitioner-Appellant

SUBSCRIBED AND SWORN AND AFFIRMED to before me this 7 day  
of September, 20 11.



  
\_\_\_\_\_  
Notary Public for Idaho  
Commission expires: 11-07-13

MOTION AND AFFIDAVIT IN SUPPORT FOR APPOINTMENT OF COUNSEL - 3  
NOTED: 10/17/15

**CERTIFICATE OF MAILING**

I HEREBY CERTIFY that on the 7 day of SEPTEMBER, 2011, I mailed a copy of this MOTION AND AFFIDAVIT IN SUPPORT FOR APPOINTMENT OF COUNSEL for the purposes of filing with the court and of mailing a true and correct copy via prison mail system for processing to the U.S. mail system to:

**Deputy Attorney General  
Criminal Division  
P.O. Box 83720  
Boise, ID 83720-0010**

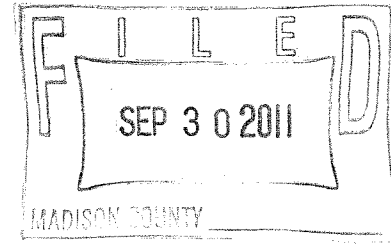
MADISON County Prosecuting Attorney  
159 EAST MAIN  
REXBURG ID 83440

  
\_\_\_\_\_  
Petitioner-Appellant

MOTION AND AFFIDAVIT IN SUPPORT FOR APPOINTMENT OF COUNSEL - 4

## 9161-2-11

Joshua A. Garner  
THE LAW OFFICE OF  
JOSHUA A. GARNER, PLLC  
P.O. Box 1014  
117 East Main  
Rexburg, ID 83440  
Telephone: (208) 359-3181  
Facsimile: (208) 359-5914  
ISBN: 7420



Attorney for Defendant

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF MADISON

STATE OF IDAHO,

Plaintiff,

v.

ARLYN ORR,

Defendant.

CASE NO.: CR-11-536

AMENDED NOTICE OF APPEAL

To: The above named respondents, State of Idaho, through their attorney Sid D. Brown, Esq.,  
and the Clerk of the above entitled Court:

Notice is hereby given that:

1. The above named appellant, Arlyn Orr, appeals against the above named respondent, State of Idaho, to the Idaho Supreme Court from the Sentence of August 29, 2011 and the conviction entered on July 28, 2011. The Honorable Gregory Moeller presided over the trial of this matter and the sentencing.

2. The party has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under and pursuant to Rule 11c, Idaho Appellate Rules.



3. A preliminary statement of the issues on appeal which the appellant intends to assert in the appeal; provided, any such lists of issues on appeal shall not prevent the appellant from asserting other issues on appeal, is as follows:

a. Did the prosecutor intentionally misstate evidence or mislead the jury during his closing argument?

b. Did the prosecutor make statements during his closing statement to the jury which were intended to inflame the passions or prejudices of the jury?

c. Was the detention of the Defendant and the subsequent seizure of his person supported by probable cause or reasonable suspicion?

4. Appellant is aware of a portion of the record being sealed, including the pre-sentence report and substance abuse evaluation.

5. The entire reporter's standard transcript of the proceedings is requested in compressed format.

6. The appellant requests the following documents to be included in the clerk's record in addition to those automatically include under Rule 28, I.A.R.: all presentence reports and evaluations. All recordings and transcripts from any hearing of this matter and the trial of this matter.

7. I certify:

a. That a copy of this notice of appeal has been served upon the reporter.

b. That the clerk of the district court has not been paid the estimated fee for preparation of the reporter's transcript because the Defendant is indigent and had qualified for the services of a public defender.

c. That the estimated fee for preparation of the clerk's record has not been paid because the Defendant is indigent and qualified for the services of a public defender.

d. That the appellate filing fee has not been paid because the Defendant is indigent and qualified for the services of a public defender.

e. That service has been made upon all parties required to be served pursuant to Rule 20.

DATED this 30 day of September, 2011.

  
Joshua A. Garner

Attorney for Defendant

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 30 day of September, 2011, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Office of the Prosecuting Attorney

☐ U.S. Mail☐ Hand Delivered☒ Facsimile to: 356-7389☐ Overnight Mail

David Marlow, Court Reporter  
159 East Main Street  
Rexburg, Idaho 83440

Courthouse Box

Idaho Supreme Court  
P.O. Box 83720  
Boise, Idaho 83720

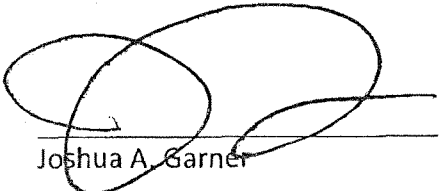
U.S. Mail

Idaho Attorney General  
P.O. Box 83720  
Boise, Idaho 83720

U.S. Mail

Idaho Appellate Public Defender  
3647 Lake Harbor Lane  
Boise, Idaho 83703

U.S. Mail

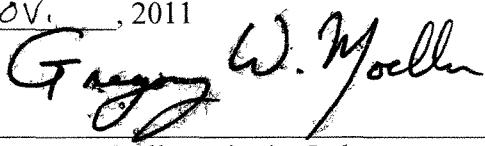
  
Joshua A. Garner

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF MADISON

STATE OF IDAHO	)	
	)	39161
Plaintiff/Respondent	)	Case No.: CR-2011-536
	)	
Vs.	)	ORDER APPOINTING STATE
	)	APPELLATE PUBLIC DEFENDER
ARLYN V ORR	)	
Defendant/	)	
	)	

Based upon Motion for Appointment of Counsel on Appeal, IT IS HEREBY  
ORDERED that this appeal be assigned to the State Appellate Public Defender's office.

Dated this the 14 day of Nov., 2011

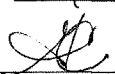
  
\_\_\_\_\_  
Gregory W. Moeller, District Judge

I HEREBY CERTIFY that a true and correct copy of the foregoing order has  
been served upon the following individuals as follows:

Ken Jorgensen	[ ] Mailed
PO Box 83720	[ ] Hand Delivered
Boise, ID 83720-0010	[ X ] Faxed
(208)334-2530	

Molly Huskey	[ ] Mailed
State Appellate Public Defender	[ ] Hand Delivered
PO Box 83720	[ X ] Faxed
Boise, ID 83720	
(208)334-2712	

Dated this day Nov 14. 11

By:   
\_\_\_\_\_  
Deputy Court Clerk

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR MADISON COUNTY

STATE OF IDAHO	)	
Plaintiff/Respondent	)	
	)	SUPREME COURT NO. 39161
	)	CASE NO. CR-2011-536
VS	)	CERTIFICATE OF EXHIBITS
	)	
	)	
ARLYN V ORR	)	
Defendant/Appellant	)	
	)	

---

I, Gwen Cureton, Deputy Clerk of the District Court of the Seventh Judicial District of the State of Idaho, in and for Madison County, do hereby certify that the following is a list of the exhibits, offered or admitted and which have been lodged with the Supreme Court or retained as indicated:

	NO.	DESCRIPTION	SENT/RETAINED
STATES			
6/27/11	1	DVD FELONY DUI (COPY)	SENT
	2	BREATHALYZER TESTS	SENT
	3	INSTRUMENT OPERATIONS LOG	SENT
STATES			
7/27/11	1	POSTERBOARD MAP (PHOTO)	SENT
	2	PHOTOGRAPH OF CRESS CREEK	SENT
	3	PHOTOGRAPH OF CRESS CREEK PARKING LOT	SENT
	4	PHOTOGRAPH OF CRESS CREEK PARKING LOT SHOWING RESTROOM	SENT
	5	PHOTOGRAPH OF CRESS CREEK SIGN	SENT
	6	PHOTOGRAPH SHOWING ROAD LEADING TO CRESS CREEK PARKING LOT	SENT
	7	DVD OF STOP-WRIGLEY AND SCOTT (COPY)	SENT
	8	PHOTOGRAPH OF ORR VEHICLE DRIVERS SEAT	SENT
	9	PHOTOGRAPH OF ORR VEHICLE PASSENGER SEAT WITH BEER CANS	SENT
	10	PHOTOGRAPH OF ORR VEHICLE CONSOLE	SENT
	11	PHOTOGRAPH OF ORR VEHICLE-FRONT SEAT AREA BOTH DOORS OPEN	SENT
	12	PHOTOGRAPH OF ORR VEHICLE DASH	SENT
	13	PHOTOGRAPH OF ORR VEHICLE FLOOR CELL PHONE	SENT

14	PHOTOGRAPH OF ORR VEHICLE MTN DEW CUP	SENT
15	PHOTOGRAPH OF ORR VEHICLE BACK SEAT BUDWEISER BOX	SENT
16	PHOTOGRAPH OF ORR VEHICLE EMPTY BUDWEISER BOX	SENT
17	PHOTOGRAPH OF BUDWEISER BOX WITH CANS	SENT
18	PHOTOGRAPH OF 7 BUDWESIER CANS	SENT
19	NOTICE OF SUSPENSION FOR ORR DATED 3/11/11	SENT
20	BAC RESULT TAPE	SENT
21	OC SPRAY	RETAINED
22	COPY OF CERTIFICATION CARD ON FC20 FOR DEPUTY SEVERINE	SENT
23	INSTRUMENT OPERATION LOG FOR 90203787-02	SENT
TRANSCRIPT FROM JUNE 27, 2011		SENT
PRESENTENCE REPORT (SENT AS A CONFIDENTIAL EXHIBIT)		SENT

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of  
the said Court this 26 day of June, 2012.

KIM H MUIR  
CLERK OF THE DISTRICT COURT

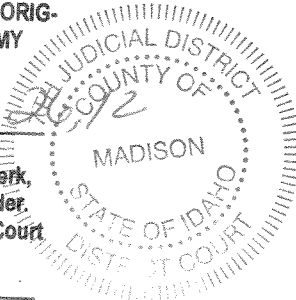
By [Signature]

Deputy Clerk

CERTIFICATE  
I HEREBY CERTIFY THE  
FOREGOING INSTRUMENT  
TO BE A TRUE AND COR-  
RECT COPY OF THE ORIG-  
INAL ON FILE IN MY  
OFFICE.

DATED June 26, 2012  
Kim H. Muir  
Madison County Clerk,  
Auditor and Recorder,  
Clerk of the District Court

By [Signature]  
Deputy



IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF MADISON

STATE OF IDAHO  
Plaintiff/ Respondent

VS

ARLYN V ORR  
Defendant/Appellant

)  
)  
) CLERK'S CERTIFICATE  
) SUPREME COURT NO. 39161  
) CASE NO. CR-2011-536  
)  
)  
)

I, Kim H Muir, Clerk of the District Court of the 7<sup>th</sup> Judicial District of the State of Idaho, in and for the County of Madison, do hereby certify that the foregoing Clerk's Record in the above entitled cause was compiled and bound under my direction and contains true and correct copies of all pleadings, documents and papers designated to be included under Rule 28, IAR, the Notice of Appeal, any Notice of Cross Appeal, and any additional documents requested to be included.

I further certify that all documents, x-rays, charts and pictures offered or admitted as exhibits in the above entitled cause, if any, will be duly lodged with the Clerk of the Supreme Court with any Reporter's Transcript and the Clerk's Record (except for exhibits, which are retained in the possession of the undersigned), as required by Rule 31 of the Appellate Rules.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court this 26 day of June, 2012.

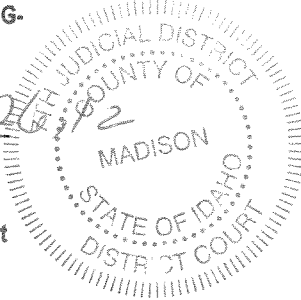
KIM H MUIR  
CLERK OF THE DISTRICT COURT

CERTIFICATE  
I HEREBY CERTIFY THE  
FOREGOING INSTRUMENT  
TO BE A TRUE AND COR-  
RECT COPY OF THE ORIG-  
INAL ON FILE IN MY  
OFFICE.

DATED June 26, 2012  
Kim H. Muir  
Madison County Clerk,  
Auditor and Recorder.  
Clerk of the District Court

By [Signature]  
Deputy

By [Signature]  
Deputy Clerk



IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF MADISON

STATE OF IDAHO

Plaintiff/Respondent

VS

ARLYN V ORR

Defendant/Appellant

CERTIFICATE OF SERVICE  
CASE NO. CR-2011-536  
SUPREME COURT NO. 39161

I, Gwen Cureton, Deputy Clerk of the District Court of the Seventh Judicial District of the State of Idaho, in and for the County of Madison, do hereby certify that I have personally served or mailed, by United States Mail, postage prepaid, one copy of the Clerk's Record and any Reporter's Transcript to each of the parties or their Attorney of Record as follows:

ATTORNEY FOR APPELLANT

Molly Huskey  
State Appellate Public Defender  
3647 Lake Harbor Lane  
Boise, ID 83703

ATTORNEY FOR RESPONDENT

Ken Jorgensen  
Attorney General  
PO Box 83720  
Boise, ID 83720-0010

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the  
seal of the said Court this 26 day of June, 2012

KIM H MUIR  
CLERK OF THE DISTRICT COURT

By [Signature]  
Deputy Clerk

CERTIFICATE  
I HEREBY CERTIFY THE  
FOREGOING INSTRUMENT  
TO BE A TRUE AND COR-  
RECT COPY OF THE ORIG-  
INAL ON FILE IN MY  
OFFICE.

DATED June 26  
Kim H. Muir  
Madison County Clerk,  
Auditor and Recorder,  
Clerk of the District Court

By [Signature]  
Deputy

